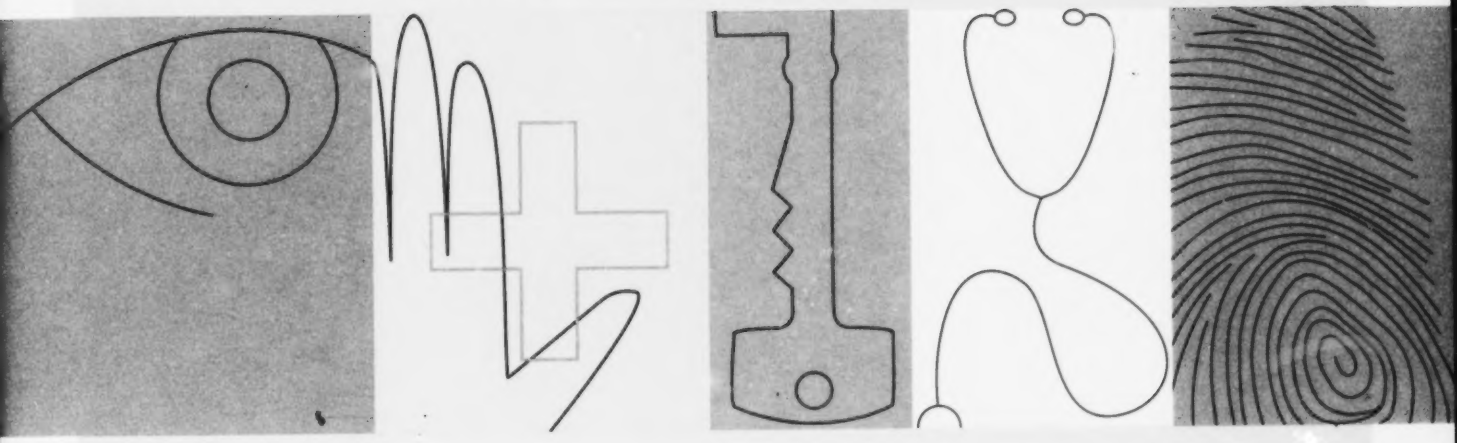
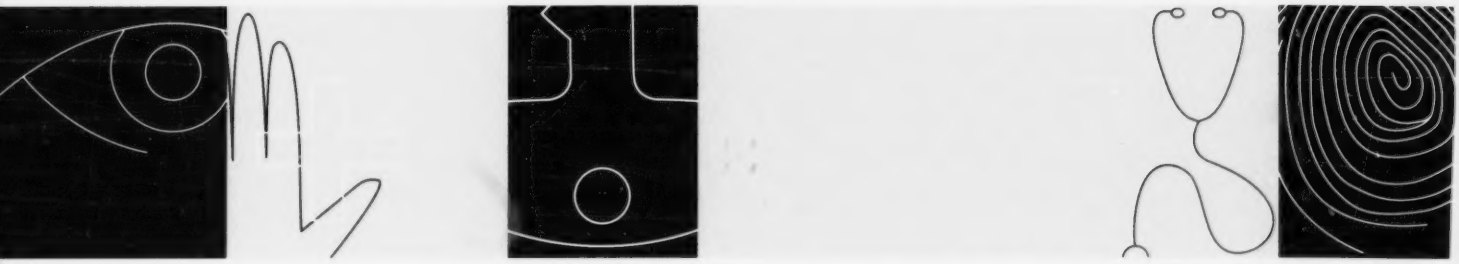


THE PURPOSES OF THE *ACTS*



The purposes of the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act* are:

a) To provide a right of access to information under the control of government organizations in accordance with the following principles:

- information should be available to the public;
- exemptions to the right of access should be limited and specific;
- decisions on the disclosure of government information may be reviewed by the Information and Privacy Commissioner.

b) To protect personal information held by government organizations and to provide individuals with a right of access to their own personal information.

Information and Privacy
Commissioner/Ontario
Commissaire à l'information
et à la protection de la vie privée/Ontario

104-06270/

June 15, 2004

The Honourable Alvin Curling
Speaker of the Legislative Assembly

I have the honour to present the 2003 annual report of the Information and Privacy Commissioner/Ontario to the Legislative Assembly.

This report covers the period from January 1, 2003 to December 31, 2003.

Sincerely yours,

Ann Cavoukian, Ph.D.
Commissioner

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ROLE AND MANDATE

Ontario's Freedom of Information and Protection of Privacy Act, which came into effect on January 1, 1988, established an Information and Privacy Commissioner as an officer of the Legislature to provide an independent review of the decisions and practices of government organizations concerning access and privacy. The Commissioner is appointed by and reports to the Legislative Assembly of Ontario. The Commissioner is independent of the government of the day in order to ensure impartiality.

The Municipal Freedom of Information and Protection of Privacy Act, which came into effect January 1, 1991, broadened the number of public institutions covered by Ontario's access and privacy legislation.

The Information and Privacy Commissioner (IPC) plays a crucial role under the two *Acts*. Together, the *Acts* establish a system for public access to government information, with limited exemptions, and for protecting personal information held by government organizations at the provincial or municipal level.

The provincial *Act* applies to all provincial ministries and most provincial agencies, boards and commissions; colleges of applied arts and technology; and district health councils. The municipal *Act* covers local government organizations, such as municipalities; police, library, health and school boards; public utilities; and transit commissions.

Freedom of information refers to public access to general records relating to the activities of government, ranging from administration and operations to legislation and policy. The underlying objective is open government and holding elected and appointed officials accountable to the people they serve.

Privacy protection, on the other hand, refers to the safeguarding of personal information – that is, data about individuals held by government organizations. The *Acts* establish rules about how government organizations may collect, and disclose personal data. In addition, individuals have a right to see their own personal information and are entitled to have it corrected if necessary.

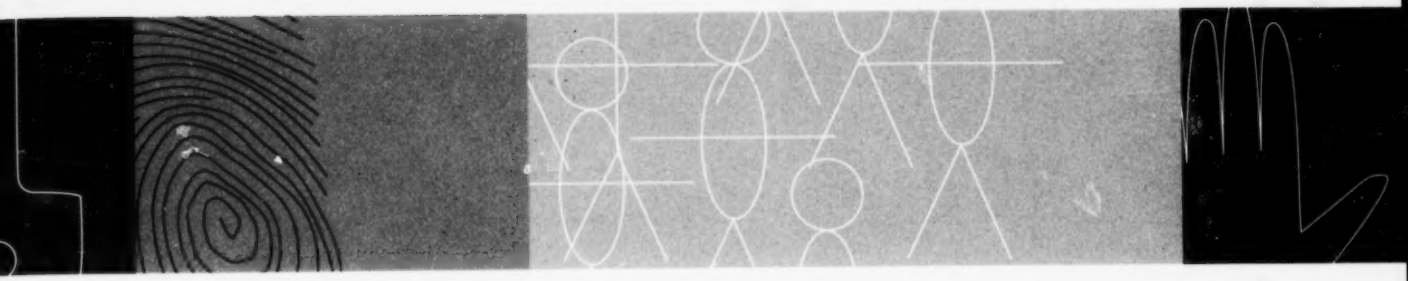
The mandate of the IPC under the *Acts* is to provide an independent review of government decisions and practices concerning access and privacy. To safeguard the rights established under the *Acts*, the IPC has five key roles:

- resolving appeals when government organizations refuse to grant access to information;
- investigating privacy complaints about government-held information;
- ensuring that government organizations comply with the *Acts*;
- conducting research on access and privacy issues and providing advice on proposed government legislation and programs;
- educating the public about Ontario's access and privacy laws, and access and privacy issues.

In accordance with the legislation, the Commissioner has delegated some of the decision-making powers to various staff. Thus, the Assistant Commissioner (Access) and selected staff were given the authority to assist her by issuing orders, resolving appeals and investigating privacy complaints.

◆

On December 17, 2003, the government introduced the *Personal Health Information Act, 2003 (PHIA)*. On passage, it will put clear rules in place to safeguard the privacy, confidentiality and security of Ontarians' health information. The mandate of the Commissioner will be expanded and the IPC will serve as the oversight body for reviewing policies, investigating complaints, resolving appeals, and ensuring compliance with *PHIA*.



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COMMISSIONER'S MESSAGE

With a new government at Queen's Park, I decided it was an appropriate time to use my 2003 annual report to provide an overall assessment of both the freedom of information and the protection of privacy environment in Ontario.

While several positive steps forward were taken over the last year, a number of important issues on both fronts still need to be addressed.

Some of these outstanding issues are new, while some have been around for quite some time. The section *Privacy and Access: A Blueprint for Action* looks at the need to:

- Renew the government culture of openness;
- Enact private-sector privacy legislation;
- Create an Open Meetings law;
- Establish a provincial Chief Privacy Officer;
- Conduct a review of fees charged for access requests;
- Reform the "contentious issues management" process;
- Restore the access and privacy rights of public sector workers; and
- Address the issue of electronic public registries.

I believe these issues are critical to addressing the public's growing demand for transparency and accountability in public administration and the protection of privacy. Not all of these reforms need to be made right away. But it is important that the government commit to move on these issues that are of concern to the citizens of Ontario.

Important first steps

After an eventful 2002, which saw governments worldwide adopt privacy invasive and access impairing legislation in an effort to stamp out the threat of terrorism, I was pleased to see a number of positive initiatives develop on the privacy and access fronts in 2003.

One of the most important actions was the new Ontario government's introduction of the *Health Information Protection Act* in December. This proposed legislation would, for the first time, protect this most highly sensitive of all personal information. The response from both the pubic and the health care community has largely been positive and supportive. My office will continue to be very active in the development of this important legislation to ensure that its implementation is smooth and effective.

Ann Cavoukian, Ph.D.
Information and Privacy Commissioner, Ontario

With the advancement of legislation to protect the privacy of its citizen's health information, I hope that the provincial government will soon follow the lead of British Columbia and Alberta and bring forward provincial private sector privacy legislation. This step would ensure that the personal information of all Ontario citizens, whether held by government, a health care provider or private business, is protected under provincial legislation.

When this happens, I am committed to working with my fellow privacy commissioners in Alberta and British Columbia to ensure that our processes and practices are consistent across these provinces for businesses and citizens who do work in each province. Taking a harmonized approach to decision-making and interpretation under the new private sector laws would create greater consistency and would minimize confusion.

2003 also brought important developments on the freedom of information front in Ontario. The first throne speech from the new government brought a renewed commitment to open and accessible government with the creation of a Democratic Renewal Secretariat. I am also happy to see that similar initiatives have been brought forward at the federal level to create a more open and accountable government.

The government also acted quickly to return Hydro One and Ontario Power Generation to the list of institutions covered by the *Freedom of Information and Protection of Privacy Act*. Further expansion to bring universities and public hospitals under the freedom of information scheme would be a consistent and logical next step.

It is now time for the Premier to take this principle of openness a step further by issuing an open letter to all ministers and deputy ministers emphasizing the government's direction that a culture of openness and transparency within government must underlie decision-making under our access laws. The letter should stress the importance and value of Ontario's freedom of information and protection of privacy laws in a democratic society. It should also set expectations that information will be disclosed as the normal course of business and that only in limited circumstances, where there are clear and compelling reasons, will the *Act* be used to deny access.

It is important that government take these actions not only to reinforce the true intentions of our laws, but also to instill in the public a greater belief in the integrity of our government.

Freedom of Information & Privacy Co-ordinators: Recognized professionals

In my 2002 report, I was happy to report that the provincial government had accepted our recommendation to implement a *Human Resources Plan* for the freedom of information and privacy protection community. I am equally pleased this year to report that Management Board Secretariat, with the help of my office, completed this plan in 2003.

The guiding principle of the plan is to build corporate access and privacy capacity within the Ontario government. The plan recognizes the importance of expertise in this area and that there is a shortage of people who have the specialized knowledge and skills required to balance information access rights with the protection of personal privacy. The plan focuses on succession management, recruitment, retention, learning and development.

The need to professionalize access and privacy work is not unique to Ontario. The University of Alberta has provided important leadership in this field through the establishment of its *Information Access and Protection of Privacy (IAPP) Certificate Program*. This post-secondary online program is a first in Canada and provides focused training and certification to qualified access and privacy professionals. I am proud that the IPC has contributed to the program by providing curriculum input.

Privacy

NATIONAL IDENTIFICATION CARD AND BIOMETRIC TECHNOLOGY

Unfortunately, the federal government continued to pursue a number of the controversial, and potentially damaging, security and anti-terrorism bills in 2003 that could have a profound impact on the privacy of all Canadians.

Last November, I was invited to speak to the House of Commons Standing Committee on Citizenship and Immigration regarding the privacy implications of a national identity card and biometric technology. I raised a number of concerns, many of which are shared by other commissioners, which I strongly believe must be addressed before considering implementing such a card.

These ranged from the cost of implementing and managing such a system to the relative immaturity of the technology to potential "function creep" in the use of the card. There are many risks associated with implementing a national identity card. But, in the end, I believe that the $5- to $7-billion price tag for implementing such a system, the significant and compelling opposition brought forward by the public, and the fact that it will not provide the kind of protection people have hoped, will cause Ottawa to rethink its plans for introducing such an all-encompassing biometric identifier.

BUSINESS: PRIVATE SECTOR DEVELOPMENTS

One of the dominant issues in 2003 was the scramble by many private-sector businesses to address the issue of privacy protection in anticipation of new legislation. Early in the year, there was much confusion for businesses as they watched to see if Ontario would pass its own law. Issues at the federal level further impacted the ability of business to prepare for the new law. As a result, my office was deluged with requests for information and assistance by both large and small businesses, as well as individual consumers.

Ontario's public-sector privacy laws, the federal laws and most privacy legislation worldwide are based on the same set of core, underlying privacy principles commonly referred to as "fair information practices." Ontario businesses looked to my office for guidance based on our experience with privacy practices and policies within government. My view has always

been that helping organizations do it right, rather than catching those that do it wrong, is the best way of advancing the privacy interests of Ontario's citizens.

One of the key products my office produced to help business with privacy matters was the development of a discussion paper, *Privacy and Boards of Directors: What You Don't Know* Can *Hurt You*. Directors have a fiduciary responsibility to ensure that major business risks are effectively managed – including privacy protection. In an increasingly electronic world, the business risk of mismanaging privacy is an increasing problem. Those that fail to address these issues can suffer serious repercussions to their reputation and financial blows.

However, while most businesses are slow to embrace the imperative that in order to manage privacy effectively – not just from a legal perspective but, more importantly, from a customer perspective – signs of progress are emerging. Businesses are beginning to understand that customers simply won't tolerate privacy breeches and will move their business elsewhere to those they trust. Firms that grasp this point and build privacy in their business practices gain a competitive advantage.

Freedom of Information

MEDIATION

Mediation has been the preferred method of dispute resolution at the IPC since the agency's inception, and we are proud that the majority of both appeals and privacy complaints are fully resolved without the need for formal adjudication and an order being issued (appeals), or an investigation with findings and recommendations (privacy complaints).

While my office promotes mediation in a number of ways, I am particularly pleased with the outcome of a recently completed joint pilot project with the Ministry of the Attorney General called *Enhanced Mediation*. The project's goals were to increase both the opportunities for mediation and the results.

The key elements of the agreed-upon protocol for the project were that a ministry mediation representative (a senior employee who, if not the decision-maker, has quick access to the decision-maker for consultation regarding settlement) participates in early mediation with the appellant, a ministry freedom of information (FOI) office designate and the IPC mediator, either in person or by teleconference. The pilot project concluded in late 2003 and was successful in meeting its goals.

Our two organizations recently published a joint paper entitled *Best Practices for Institutions in Mediation Appeals* that sets out as best practices the components of a successful mediation process, as demonstrated by the pilot project. Based on the success of the pilot project, we are evolving the way we do mediation at the IPC to a more interactive model involving face-to-face mediation and teleconferencing with the parties.

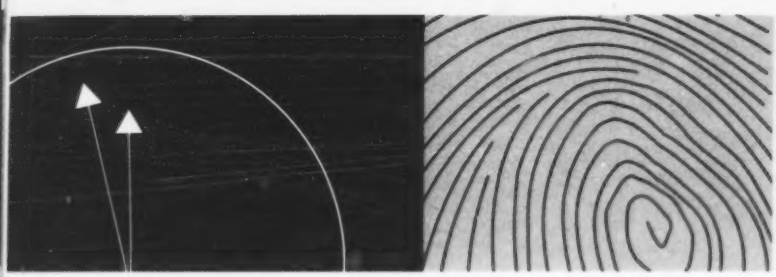
ACCESS DESIGN PRINCIPLES

My staff, together with the Resources Cluster and Management Board Secretariat, launched a project in 2003 to reduce the barriers in terms of costs and time to access government information covered under Ontario's *Freedom of Information and Protection of Privacy Acts* when building new or revamping existing information management systems. This project is timely, given the focus on open government and electronic service delivery, as well as greater citizen expectations regarding access to information.

The Access Design Principles project aims to provide a guide for the development of "access friendly" information-management systems. Significant progress was made in 2003 in establishing a draft framework for the principles to guide in business planning as well as systems design and development stages. One of the key next steps is to pilot the framework on a planned new or revamped system.

Personal thanks

Once again, the staff in my office has done a tremendous job in serving me and the interests of freedom of information and privacy in Ontario. With all of the external changes and pressures in the FOI and privacy fields in recent years, the demands on my office have grown significantly. Throughout this, my staff have not only met but exceeded the growing expectations placed upon them. I am proud and honoured to work with such a dedicated and professional team. My sincerest thanks to each and every one of you!



PRIVACY AND ACCESS: A BLUEPRINT FOR ACTION

2003 was a year of political change in Ontario. In October, a newly elected government took the reins at Queen's Park.

In its first throne speech in late November, the government promised to make the entire public sector more transparent and responsible to Ontarians. It also established a Democratic Renewal Secretariat and pledged to introduce "ambitious" new legislation to improve our democratic system of government.

In December, the government began to deliver on its promises by taking two important first steps. First, it introduced a health information privacy bill, the *Health Information Protection Act*, which attempts to strike a balance between an individual's right to privacy and the legitimate need of the health care sector to utilize personal health information for the administration of our health care system. And second, it added Hydro One and Ontario Power Generation to the list of institutions covered by the *Freedom of Information and Protection of Privacy Act*.

These are very positive developments for privacy and access. We have truly entered a new era with respect to the important values reflected in our privacy protection and open records laws, and we look forward to working collaboratively with the new government as its commitment to reform takes concrete shape.

Let me offer a number of suggestions that would represent real and noticeable change in the political climate of Ontario. Not all of these reforms need to be made right away, but it is critically important that the early steps taken by the government in December represent merely the starting point for a comprehensive program of change. The public has made it clear that transparency and accountability in public administration are of paramount importance to effective government. Equally important is the value citizens place on the protection of privacy. My hope is that we can all move forward together in ways that really matter to Ontarians.

Culture of Openness

The provincial and municipal access laws both contain strong purpose clauses that presume broad disclosure of government records. The *Acts* give members of the public a legal right to access government-held information, and require government bodies to apply any exemptions in a "limited and specific" way. The statutory entitlements are strong and clear; the challenge is in developing a culture of openness within government that reflects the underlying principles of the legislation.

When he was first elected in 1993, U.S. president Bill Clinton sent a memorandum to all heads of federal departments and agencies that characterized the U.S. *Freedom of Information Act* as "a vital part of the participatory system of government," and he made it clear to the leaders of his administration that "the existence of unnecessary bureaucratic hurdles has no place in its implementation." At the same time, his attorney general, Janet Reno, directed senior legal officers throughout the government to apply a presumption of disclosure when making access decisions. She made it clear that "where an item of information might technically or arguably fall within an exemption, it ought not to be withheld unless it need be."

The Ontario government's commitment to open and transparent government in its first throne speech was a very important symbolic first step in establishing a new culture of openness in Ontario. But that can only be the beginning. These good intentions must be translated into concrete action. We are calling on Premier McGuinty to go further and to issue an open letter to all ministers and deputy ministers that is similar in style and substance to the Clinton/Reno memoranda. In particular, it should emphasize the importance of Ontario's *Acts* in ensuring openness and transparency, and set expectations that information will be disclosed unless there is a clear and compelling reason not to do so.

Private-Sector Privacy Legislation

As of January 1, 2004, the federal *Personal Information Protection and Electronic Documents Act (PIPEDA)* applies to the private sector in Ontario and all other provinces that have not enacted "substantially similar" privacy legislation. *PIPEDA* sets out rules governing the collection, use and disclosure of personal information by private-sector organizations in the course of commercial activities.

Although the extension of *PIPEDA* to the provincially regulated private sector is a positive development from a privacy perspective, the constitutionality of this action remains in question. In December 2003, the Quebec Court of Appeal issued an order that allows Quebec's attorney general to challenge the constitutional validity of this federal law as an intrusion into matters of provincial jurisdiction.

Given this constitutional uncertainty, we urge the Ontario government to bring forward a made-in-Ontario privacy law that applies to the provincially regulated private sector (which includes the vast majority of businesses in Ontario). The Ministry of Consumer and Business Services (MCBS) prepared a privacy bill that was ready to go in 2003. Although an earlier draft of the bill attracted criticism from some businesses and charitable organizations, MCBS consulted extensively with stakeholders and came up with a vastly improved bill that remains available for introduction in the legislature.

As an even better alternative, the new government may wish to consider modeling Ontario's legislation after comparable private-sector privacy laws enacted in Alberta and British Columbia late last year. These simple, clearly worded laws strongly protect the privacy rights of consumers without imposing an undue burden on businesses. The enactment of a similar law in Ontario would have the added benefit of ensuring that companies with operations in all three provinces face a consistent set of privacy rules.

Open Meetings

In last year's annual report, we recommended that the Ontario government introduce a comprehensive open meetings law that would apply to municipal governments. We continued our push for this type of legislation by subsequently releasing a research report on open meetings and providing an opinion-page article that was published in various newspapers across Ontario during the 2003 municipal election period.

An open meetings law must ensure that both municipal officials and the public have a clearer understanding of which gatherings constitute a "meeting" and which do not. It also needs to ensure that citizens are given proper advance notice of meetings, and that municipal councils or boards do not try to slip something onto the agenda at the last minute without telling the public. The law also needs to provide for an efficient and effective oversight body that can investigate complaints and resolve disputes, and must provide remedies or penalties if municipal officials refuse to comply with open meetings requirements.

Shortly after coming to power, the new government announced the establishment of the Democratic Renewal Secretariat. Although the Secretariat will be exploring a broad range of issues directed at electoral reform, we strongly urge the Secretariat to include open meetings legislation within its mandate. The lack of transparency in the operation of municipal councils, police service boards, school boards and other similar public bodies is frequently the subject of editorial comment. Citizens feel left out of the decision-making processes and are becoming disengaged as a result. Open meetings legislation could represent a key tool to renewing public participation in these municipally based democratic institutions.

Chief Privacy Officer

In our 2001 annual report, I called on the Ontario government to appoint a chief privacy officer (CPO) for the province. I want to renew that call here. Since 2001, an increasing number of private-sector companies have appointed a CPO to oversee compliance with privacy legislation. However, governments have been slow to create such a position even though they collect and store highly sensitive personal information about citizens, are increasingly involved in electronic service delivery, and are responsible for balancing security and privacy in the post 9/11 era.

In April 2003, the United States Department of Homeland Security appointed a CPO whose responsibilities include ensuring that the department complies with the U.S. federal *Privacy Act* and evaluating emerging technologies from a privacy perspective. We urge the Ontario government to appoint a senior public servant as a CPO who would act as an internal advocate for privacy at the highest levels and ensure that government programs are designed in a manner that protects and enhances the privacy rights of Ontarians. The post of CPO should not be combined with the position of chief security officer because privacy responsibilities are too often diminished when such roles are merged.

Fees

The amount of fees charged to obtain information under the *Acts* must be compatible with the purpose of the legislation. Citizens cannot effectively scrutinize the activities of government and obtain or correct their own personal information if fees create a barrier to access.

The *Savings and Restructuring Act, 1996* brought in higher user fees for FOI. An individual is now charged $5 for each access request, including a request for his or her own personal information. There can also be significant additional fees for search time, copying documents, etc. The 1996 fee structure also eliminated the two hours of free search time that was previously available. If an individual appeals an institution's decision to our agency, the fee is $10 for appeals relating to access to or correction of one's own personal information, and $25 for appeals relating to access to general records.

We support the user-pay principle, but believe that the fee structure introduced in 1996 discourages government accountability and fetters the right of Ontarians to access and correct their own personal information. We urge the government to eliminate the fees charged for personal information requests and appeals, and recommend that the two hours of free search time be restored.

Contentious Issues Management

In our 2000 annual report, we expressed serious concern about a politically driven process within the government known as "contentious issues management." Under this process, which was managed by Cabinet Office, FOI requests deemed to be "contentious" were put on a different and potentially slower track than standard FOI requests. A request would be characterized as contentious if it came from certain individuals or groups (e.g., the media, public interest groups, politicians), or concerned a politically sensitive topic.

In September 2003, the *Toronto Star* published a *Right to Know* series by journalist and Atkinson Fellow Ann Rees that revealed detailed information about the "contentious issues management" system. The provincial *Act* requires institutions to respond to FOI requests within 30 days. However, Rees found that government delays in responding to requests were sometimes caused by the contentious issues process. For example, she obtained a Management Board Secretariat (MBS) memorandum that stated, "MBS reported a [30-day] compliance rate of 69 per cent for 2000 but this factor would have been 88 per cent but for files delayed by the contentious issues process."

Many governments have systems in place to give ministers a "heads up" about the disclosure of potentially controversial records under FOI. This, on its own, is not a problem. However, any such system must not interfere with the statutory timeframe for responding to FOI requests, and the identity of a requester must only be provided to those public servants who need this information in order to process the request. We urge the Ontario government to reform the contentious issues management process and put in place a policy that makes it clear that:

- The 30-day statutory timeframe for processing FOI requests must take precedence over any process for managing contentious issues; and
- the names of requesters shall only be disclosed on a "need to know" basis within a ministry.

Employment Information of Public Servants

In 1995, the government enacted the *Labour Relations and Employment Statute Law Amendment Act* (Bill 7), which contained provisions that exclude a wide range of records about public-sector employees from the scope of the *Acts*. Since then, the Courts have interpreted these provisions broadly, and our agency has been directed by the Courts to uphold government decisions to deny access to records that were routinely made available to employees outside the *Acts*. Order PO-2224 is a good example, where an employee was denied access to his own personnel file, simply because the ministry in that case decided to apply the Bill 7 provisions.

Public-sector employees in Ontario are currently precluded from obtaining access to most employment-related records about themselves, and from filing a privacy complaint if they feel that their personal information has been improperly collected, used, disclosed or retained. This approach to employee information is inconsistent with many other privacy laws, including *PIPEDA*, which provides employees of federally regulated companies with

a statutory right to access and correct personal information held by their employer, and to file a complaint with the federal privacy commissioner if they believe that their employer has inappropriately collected, used or disclosed their personal information.

We urge the Ontario government to restore the access and privacy rights of public sector workers by repealing the Bill 7 provisions of the *Acts*.

Public Registries

Despite our repeated urging, the government has failed to address an important privacy issue that is not adequately dealt with under the *Acts*. Ontario needs to initiate a public consultation process to identify how the *Acts* can be amended to properly deal with the treatment of publicly available personal information in an electronic format.

The largest collections of publicly available personal information are known as public registries and include the land registry, the Personal Property Security Registration system, election finance records, and the property assessments rolls. If the entire content of these registries is readily accessible in electronic format, the personal information of citizens can be easily retrieved, searched, sorted, manipulated and used for purposes that have no connection to the original purpose for which the information was collected. Some of these may by valid, but clearly others, such as identity theft, are not.

The extension of *PIPEDA* to the provincially regulated private sector in Ontario may provide some added privacy protection for publicly available personal information held by businesses. Under *PIPEDA* and its accompanying regulations, organizations can only collect, use and disclose personal information from public registries for a purpose that is directly related to the purpose for which this information appears in the registry. However, this rule does not apply to individuals or organizations that collect, use or disclose personal information while engaged in non-commercial activities; and more importantly, it also does not impose any legal obligations on provincial and municipal institutions, which hold a great deal of personal information in public registries.

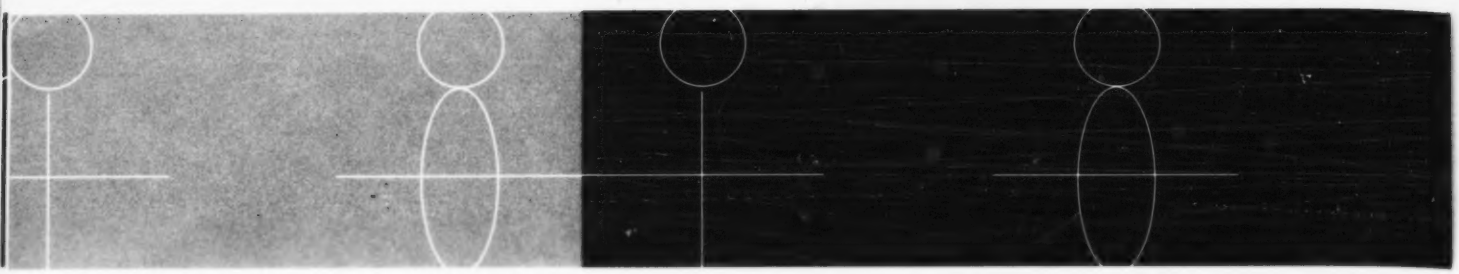
Over the years, our orders attempted to restrict bulk access to public registries, particularly in electronic format. However, in May 2002, the Ontario Divisional Court issued a decision that appears to suggest that distinguishing records on the basis of whether they are in paper or electronic records is not valid[1].

Although we deal with appeals on a case-by-case basis, taking into account the particular facts of each case, we are compelled to follow the Divisional Court's ruling in similar cases, and our orders are beginning to reflect a shift in interpretation[2].

In our view, this is not the best way to address this important issue. Finding the proper balance between access and privacy when dealing with potentially huge databases of personal information should be made on the basis of informed debate. Our *Acts* need to be amended to deal with this issue, and that can only take place after the various interests are identified and balanced appropriately.

[1] *Phipps Gomba v. Tom Mitchinson, Assistant Commissioner et al.* (2002), 59 O.R. (3d) 774

[2] *Order MO-1693*



WORKING TOGETHER

The IPC's Tribunal Services Department, as part of its Institutional Relations Program, works collaboratively each year with selected municipal and provincial organizations as part of its ongoing efforts to:

- gain a better understanding of the business of our institutional clients in order to deal more effectively with appeals and complaints; and
- provide IPC mediators and institutional staff with an opportunity to better understand each other's roles and needs, and develop more productive relationships.

Once again, we were pleased with the positive response we received from institutions to working with our mediators on projects of joint interest. Working together, outside the confines of appeals and complaints, has proven to be a highly successful way of promoting an understanding of and commitment to the *Acts*.

In 2003, some of our institutional relations programs involved organizations with which we have a long history of joint projects (such as the Ministry of the Attorney General and the Ministry of Natural Resources). Other projects involved organizations we relatively recently started working with (such as the Freedom of Information Police Network). And, there were institutions that we had not previously worked directly with (such as the Town of Newmarket) and co-ordinators who were participating for the first time in our special meetings promoting mediation.

Promoting Mediation

Mediation is the preferred method of dispute resolution at the IPC and we are committed to promoting the benefits of mediation to our clients by way of projects (*see the Ministry of the Attorney General, under the provincial highlights*) and meeting with co-ordinators. On two occasions in 2003, we invited a number of municipal and provincial co-ordinators and their staff to meet jointly with both our municipal and provincial mediation teams to discuss the benefits of mediation in general and to discuss and promote our mediation successes.

Here are some highlights of our work in 2003 with the municipal sector:

FREEDOM OF INFORMATION POLICE NETWORK

We accepted an invitation from the Freedom of Information Police Network to speak at its spring meeting and training workshop. While our meetings with co-ordinators to discuss mediation and promote our successes normally take place at the IPC offices in Toronto, we decided to take our mediation presentation to the Police Network workshop, which attracts co-ordinators and their staff from local police services across the province and from the Ontario Provincial Police.

TOWN OF NEWMARKET

The Town of Newmarket approached us about working on a joint project aimed at improving the town's understanding of access and privacy issues. In discussing a number of potential topics aimed at having a practical impact not only on the town's day-to-day work but which would also provide guidance to other institutions, we decided to deal with inspection records, since most municipal and many provincial institutions perform inspection functions.

Together, we produced a brochure entitled *Inspection Reports and the Municipal Freedom of Information and Protection of Privacy Act*, which was designed to outline how the *Act* might apply to these types of records. The brochure highlights a number of key points for inspectors, including such questions as who has custody or control of inspection reports and whether the opinions and/or views of an inspector about another individual are the personal information of the inspector or the other person.

Upon completion of the brochure, the town invited us to do a presentation for its inspectors – and inspectors from neighbouring communities – on both inspection reports and the role of the IPC.

Here are some highlights of our work with the provincial sector:

MINISTRY OF THE ATTORNEY GENERAL

As part of our commitment to mediation, we produced a joint paper with MAG, *Best Practices for Institutions in Mediating Appeals under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act*. The paper sets out what we believe will be a revitalized mediation process, one that is based on face-to-face mediation and/or teleconferencing with the mediator, the appellant, access and privacy professionals and an institutional representative who has either the authority to bind the institution or has quick access to the decision-maker.

Here's the background: In 2001, MAG and the IPC undertook a mediation pilot project aimed at increasing the number of appeals that were settled in full or in part, reducing the time needed to resolve appeals and increasing the parties' satisfaction with the appeal process. It was agreed that at the end of the pilot we would evaluate this "enhanced" mediation model, which we did in 2003. The final piece of the pilot project was the development of *Best Practices* that reflect and promote what we learned from our experiences.

MINISTRY OF NATURAL RESOURCES

An electronic records and document management system (ERDMS) is a tool that enables an organization to efficiently manage all records and documents that are created and maintained in both electronic and hardcopy format. ERDMSs were highlighted as a key issue in the IPC's 2002 annual report.

At that time, MNR was designing and implementing an innovative web-based document management system aimed at enhancing its ability to locate records and facilitate the routine disclosure and active dissemination (RD/AD) of information to the public. The system is made up of two components: an online document management system (ODMS) and an online web-publishing system (OWPS).

As we noted then, from an access perspective, MNR's document management system has two significant pluses: the ministry's freedom of information office can use the ODMS as a starting point for locating and retrieving documents in response to access requests; and the automated nature of the web-publishing tool will help MNR to significantly expand RD/AD.

We are pleased to report that the ministry's ODMS is up and running. Now the ministry is taking the next step, linking the ODMS to its website. The end result will be that, in the near future, documents that have been marked as available to the public will be retrievable through certain search engines on the MNR website without the need to make a formal request under the *Act*. MNR will be carefully reviewing all documents to ensure that no personal information or other information subject to the mandatory exemptions in the provincial *Act* is inadvertently disclosed. Congratulations to MNR for developing an innovative mechanism for enhancing public access to government-held records.

REQUESTS BY THE PUBLIC

Provincial and municipal government organizations are required under the *Acts* to submit a report to the IPC on the number of requests for information or correction to personal information they received in the prior calendar year, timeliness of responses, outcomes, fees collected, and other pertinent information.

In 2003 – for the second straight year – the number of freedom of information requests filed across Ontario set a new record. There were 30,110 requests filed with provincial and municipal government organizations, a 12 per cent increase from the previous year, when 26,863 were received. This is the fifth straight year that the number of requests has increased.

Provincial organizations received 21.1 per cent more requests in 2003 (14,774, up from 12,198 in 2002). Of these, 32 per cent (4,739) were for personal information and 68 per cent (10,035) were for general records.

Municipal government organizations received 4.6 per cent more requests in 2003 (15,336, compared to 14,665 in 2002). Just under one-third (4,955) were personal information requests and just over two-thirds (10,381) were for general records.

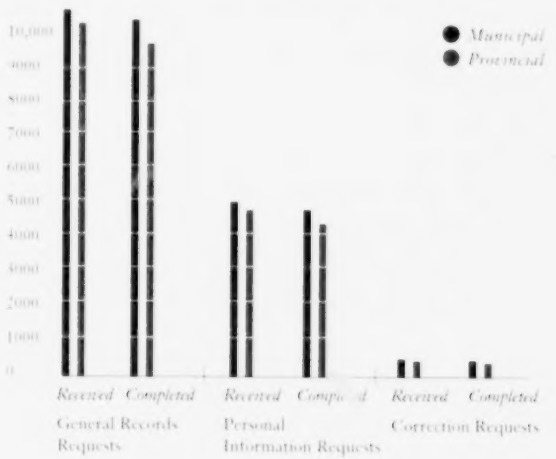
As in past years, the Ministry of Environment received the largest number of requests under the provincial *Act* (4,432), followed by the ministries of Health and Long-Term Care (3,939), Community Safety and Correctional Services (2,470), and Labour (949). Together, these four ministries received 80 per cent of all provincial requests.

Once again, Police Services Boards received the most requests under the municipal *Act* – 50.6 per cent of all requests. Municipal corporations were next with 45.9 per cent, followed by health boards at 1.4 per cent and school boards with one per cent.

For the first time since the *Municipal Freedom of Information and Protection of Privacy Act* came into effect in 1991 and the IPC began reporting both provincial and municipal 30-day response rates, provincial organizations outperformed their municipal counterparts.

Provincial organizations responded to 77.2 per cent of requests within 30 days in 2003. This percentage declines to 76 per cent when restricted to provincial organizations where a minister is the head. Overall, 91.6 per cent of provincial requests were answered within 60 days (a 12.3 per cent improvement from 2002). Three per cent took more than 120 days to complete, a significant improvement from the nine per cent recorded in 2002.

Requests Received and Completed – 2003



Municipal government organizations responded to 72.1 per cent of requests within 30 days. Overall, 84.2 per cent of municipal requests were responded to within 60 days. Six per cent of requests required more than 120 days to complete – more than double the 2002 rate.

(For a more detailed discussion of compliance rates, see the chapter entitled *Response Rate Compliance*, which follows this chapter.)

The majority of provincial requests in 2003 (76.8 per cent) were made by businesses, while the majority of municipal requests (58.5 per cent) came from individuals.

The *Acts* contain a number of exemptions that allow, and in some situations actually require, government organizations to refuse to disclose requested information. In 2003, the most frequently cited exemption for personal information requests was the protection of other individuals' privacy (sections 49/38, in the provin-

cial/municipal *Acts*). Privacy protection (sections 21/14) was also the most used exemption for general records requests.

The *Acts* give individuals the right to request correction of their personal information held by government organizations. In 2003, provincial organizations received seven requests for corrections and refused three. Municipal organizations received eight correction requests and refused three. When a correction is refused, the requester can attach a statement of disagreement to the record, outlining why the information is believed to be incorrect. In 2003, there were two statements of disagreement filed with municipal organizations; none with provincial organizations.

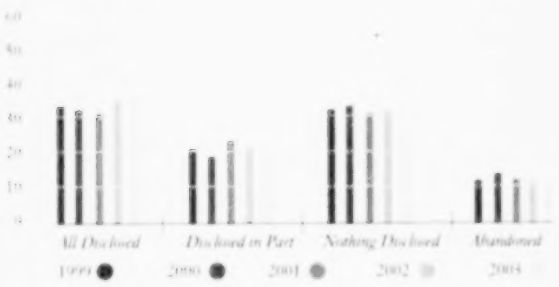
The legislation contains a number of fee provisions. In addition to application fees, which are mandatory, government organizations can charge certain other prescribed fees for responding to requests. Where the anticipated charge is more than $25, a fee estimate can be given to a requester before search activity begins. Organizations have discretion to waive fees where it seems fair and equitable to do so after weighing several specific factors listed in the *Acts*.

Provincial organizations reported collecting $70,870 in application fees and $324,013.75 in additional fees in 2003. The corresponding numbers for municipal organizations were $72,137.20 and $151,147.80.

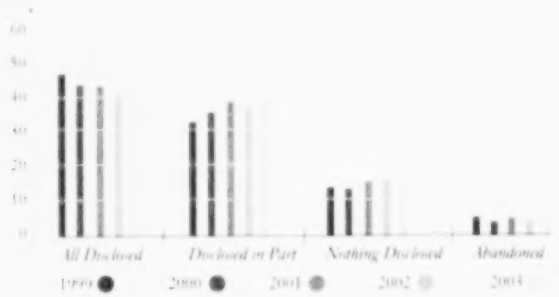
Search fees were the most commonly charged category by provincial organizations (46 per cent), followed by reproduction costs (27 per cent) and shipping charges (17 per cent). Municipal organizations, in contrast, most frequently charged for reproduction costs (42 per cent), followed by search fees (26 per cent) and preparation costs (20 per cent).

(Percentages may not equal 100 due to rounding.)

Outcome of Provincial Requests – 2003 (%)



Outcome of Municipal Requests – 2003 (%)



Municipal Exemptions Used Personal Information – 2003

Municipal Exemptions Used General Records – 2003

Provincial Exemptions Used Personal Information– 2003

Provincial Exemptions Used General Records – 2003

Cases in Which Fees Were Estimated – 2003

	Provincial		*Municipal*	
Collected in Full	86.0%	5144	48.5%	2565
Waived in Part	10.7%	641	1.8%	98
Waived in Full	3.3%	197	49.7%	2630
Total Application Fees Collected (dollars)		$70,870.00		$72,137.20
Total Additional Fees Collected (dollars)		$324,013.75		$151,147.80
Total Fees Waived (dollars)		$82,400.53		$13,337.27

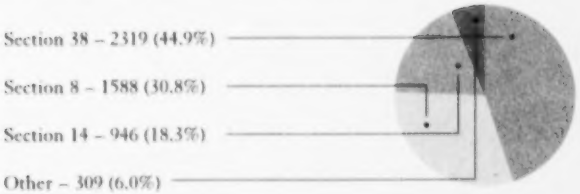
Average Cost of Provincial Requests for 2003

Personal Information	$8.89
General Records	$41.82

Average Cost of Municipal Requests for 2003

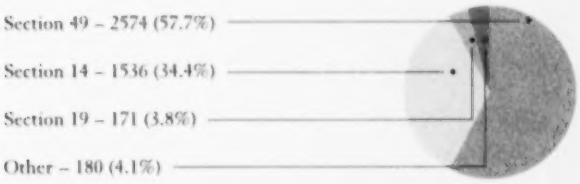
Personal Information	$7.67
General Records	$19.52

Municipal Exemptions Used Personal Information – 2003



Municipal Exemptions Used General Records – 2003

Provincial Exemptions Used Personal Information– 2003



Provincial Exemptions Used General Records – 2003

Cases in Which Fees Were Estimated – 2003

	Provincial		*Municipal*	
Collected in Full	86.0%	5144	48.5%	2565
Waived in Part	10.7%	641	1.8%	98
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Total Application Fees Collected (dollars)		$70,870.00		$72,137.20
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Average Cost of Provincial Requests for 2003

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Average Cost of Municipal Requests for 2003

Personal Information	$7.67
General Records	$19.52

RESPONSE RATE COMPLIANCE

To focus attention on the importance of complying with the response requirements of the *Acts*, the IPC reports compliance rates for each ministry and selected government organizations.

Provincial Organizations

In keeping with a practice introduced in the 2002 annual report, the IPC is reporting individual compliance rates via two sets of charts. First, as we have done for four years, the compliance rate for each institution is set out in terms of meeting the 30-day response standard set by the *Acts*. A second chart reports on the compliance rate when Notices of Extension (section 27(1) of the provincial *Act*; section 20(1) of the municipal *Act*) and Notices to Affected Person (section 28(1) and section 21(1) respectively) are included in the compliance calculations. As noted in last year's report, the legitimate issuance of either Notice means that a government organization can be in compliance with the *Act*, despite the fact that it takes more than 30 days to respond to a request.

2003 marked a potential watershed in the compliance rates of provincial ministries in responding to requests. Overall, provincial ministries had a compliance rate of 77.2 per cent. When the issuance of Notices is considered, the compliance rate increases to 80.4 per cent. This represents a remarkable turnaround from the compliance levels achieved in preceding years. We applaud these efforts.

In fact, 2003 saw the highest level of compliance achieved by provincial ministries since 1989, when the provincial compliance rate was 84.2 per cent, albeit for a relatively low number of requests. As a point of comparison, the compliance rate of ministries reached its low point in 1996, when only 39 per cent of requests were answered within 30 days. In 1998, when the compliance rate had risen to only 42 per cent, the IPC decided to focus public attention on this issue by reporting compliance on a ministry-by-ministry basis. In 1999, the first year for this new reporting format, 50 per cent of provincial requests were answered within 30 days. The compliance rate increased gradually in following years, until the dramatic improvement in 2003.

Much of this increase can be attributed to the effort of two ministries, Environment and Health and Long-Term Care. As reported in the 2002 annual report, the Ministry of the Environment met the 30-day requirement only 25.6 per cent of the time. Although clearly inadequate, the 2002 result was almost double its rate of compliance in 2001. Because this ministry received a large number of requests (4,090 in 2002), its performance dramatically lowered the overall compliance rate for provincial ministries as a whole.

To its credit, and with the assistance of the IPC, the Ministry of the Environment undertook a series of initiatives designed to improve its performance. The compliance rate for 2003 shows that these efforts have paid enormous dividends. While handling an increased number of requests, the ministry met the 30-day compliance requirement an impressive 76.3 per cent of the time. The impact on the overall provincial performance is obvious. The IPC wishes to congratulate all Ministry of the Environment staff involved in the freedom of information process for this remarkable achievement. The commitment of senior management, increased resources, and the dedication and hard work of staff, particularly Jim Lewis, manager of the freedom of information office, have resulted in an impressive compliance rate for 2003.

Special note must also be taken of the performance of the Ministry of Health and Long-Term Care. In 2003, the number of requests received by this ministry increased to 3,938 from 2,194 in 2002. In addition, the ministry's ability to respond to freedom of information requests was hindered by the SARS and West Nile outbreaks during 2003, resulting in the reassigning of staff to deal with these health emergencies. Despite these issues, the ministry reached a 75 per cent compliance rate, an increase of almost 15 per cent over the previous year. The IPC applauds the dedication and commitment of ministry staff.

Provincial: Number of Requests Completed in 2003 *(includes only Boards, Agencies and Commissions where the Minister is the Head)*

Ministry	*Requests Received*	*Requests Completed*	*Within 1–30 days*		*Within 31–60 days*		*Within 61–90 days*		*More than 90 days*	
			No. of Requests	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*	*No. of Requests*	*%*
Agriculture & Food	40	35	24	68.6	5	14.3	4	11.4	2	5.7
Attorney General/ONAS	323	330	286	86.7	15	4.5	21	6.4	8	2.4
Cabinet Office	52	47	40	85.1	4	8.5	2	4.3	1	2.1
Citizenship & Immigration	49	45	22	48.9	14	31.1	4	8.9	5	11.1
Children's Services/ Community & Social Services	546	469	384	81.9	71	15.1	9	1.9	5	1.1
Community Safety & Correctional Services	2470	2430	1733	71.3	458	18.8	131	5.4	108	4.4
Consumer & Business Services	216	219	212	96.8	5	2.3	1	0.5	1	0.5
Culture	5	5	3	60.0	2	40.0	0	0.0	0	0.0
Economic Development & Trade	8	10	7	70.0	3	30.0	0	0.0	0	0.0
Education	34	31	24	77.4	2	6.5	0	0.0	5	16.1
Energy	19	14	4	28.6	2	14.3	1	7.1	7	50.0
Environment	4432	4707	3590	76.3	568	12.1	215	4.6	334	7.1
Finance	174	175	119	68.0	25	14.3	10	5.7	21	12.0
Francophone Affairs	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Health & Long-Term Care	3938	3180	2386	75.0	637	20.0	68	2.1	89	2.8
Intergovernmental Affairs	5	5	0	0.0	5	100.0	0	0.0	0	0.0
Labour	827	814	683	83.9	74	9.1	23	2.8	34	4.2
Management Board Secretariat	47	46	35	76.1	7	15.2	0	0.0	4	8.7
Municipal Affairs	31	30	23	76.7	7	23.3	0	0.0	0	0.0
Natural Resources	167	168	96	57.1	38	22.6	25	14.9	9	5.4
Northern Development & Mines	11	13	10	76.9	2	15.4	0	0.0	1	7.7
Public Infrastructure Renewal	1	0	0	0.0	0	0.0	0	0.0	0	0.0
Tourism & Recreation	12	12	1	8.3	7	58.3	2	16.7	2	16.7
Training, Colleges & Universities	73	70	55	78.6	9	12.9	6	8.6	0	0.0
Transportation	248	242	219	90.5	19	7.9	4	1.7	0	0.0

Provincial

Compliance including Notice of Extension and Notice to Third Parties (includes Boards, Agencies and Commissions where the Minister is the Head)

Ministry	*30 day compliance %*	*Compliance including s. 27(1) / 28(1) %*
Agriculture & Food	68.6	85.7
Attorney General/ONAS	86.7	96.1
Cabinet Office	85.1	93.6
Citizenship & Immigration	48.9	62.2
Children's Services/Community & Social Services	81.9	86.6
Community Safety & Correctional Services	71.3	82.6
Consumer & Business Services	96.8	99.1
Culture	60.0	100.0
Economic Development & Trade	70.0	100.0
Education	77.4	83.9
Energy	28.6	28.6
Environment	76.3	76.3
Finance	68.0	73.1
Francophone Affairs	100.0	100.0
Health & Long-Term Care	75.0	75.7
Intergovernmental Affairs	0.0	100.0
Labour	83.9	84.5
Management Board Secretariat	76.1	78.3
Municipal Affairs	76.7	83.3
Natural Resources	57.1	72.0
Northern Development & Mines	76.9	82.3
Public Infrastructure Renewal	0.0	0.0
Tourism & Recreation	8.3	50.0
Training, Colleges & Universities	78.6	97.1
Transportation	90.5	90.9

Provincial: Number of Requests Completed in 2003

Ministry	Received	Received (%)	Within 30 Days	Within 30 Days (%)	Within 31-60 Days	Within 31-60 Days (%)	Within 61-90 Days	Within 61-90 Days (%)	Within 91+ Days	Within 91+ Days (%)
Agriculture, Food	40	35	24	68.6	5	14.3	4	11.4	2	5.7
Attorney General (ONAS)	323	330	286	86.7	15	4.5	21	6.4	8	2.4
Cabinet Office	52	47	40	85.1	4	8.5	2	4.3	1	2.1
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Community Safety & Correctional Services	2470	2430	1733	71.3	458	18.8	131	5.4	108	4.4
Consumer & Business Services	216	219	212	96.8	3	1.4	1	0.5	1	0.5
Culture	5	5	3	60.0	2	40.0	0	0.0	0	0.0
Economic Development, Trade	8	10	7	70.0	3	30.0	0	0.0	0	0.0
Education	34	31	24	77.4	2	6.5	0	0.0	5	16.1
Energy	19	14	4	28.6	2	14.3	1	7.1	7	50.0
Environment	4432	4707	3590	76.3	568	12.1	215	4.6	334	7.1
Finance	174	175	119	68.0	25	14.3	10	5.7	21	12.0
Intergovernmental Affairs	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Health & Long-Term Care	3938	3180	2386	75.0	637	20.0	68	2.1	89	2.8
Intergovernmental Affairs	5	5	0	0.0	5	100.0	0	0.0	0	0.0
Labour	827	814	683	83.9	74	9.1	23	2.8	34	4.2
Management Board Secretariat	47	46	35	76.1	7	15.2	0	0.0	4	8.7
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Public Infrastructure Renewal	1	0	0	0.0	0	0.0	0	0.0	0	0.0
Tourism & Recreation	12	12	1	8.3	7	58.3	2	16.7	2	16.7
Training, Colleges & Universities	78	70	55	78.6	9	12.9	6	8.6	0	0.0
Transportation	248	242	219	90.5	19	7.9	4	1.7	0	0.0

Provincial

88.6	85.7
80.7	96.1
85.1	95.6
48.3	62.2
81.9	86.6
71.1	82.6
96.8	99.1
0.0	100.0
70.0	100.0
77.4	83.9
28.6	28.6
76.4	76.4
68.0	74.1
100.0	100.0
75.0	75.7
0.0	100.0
81.1	84.5
76.1	78.5
76.7	83.3
67.1	72.0
76.9	82.3
0.0	0.0
8.3	50.0
79.3	97.1
90.5	90.9

Five provincial ministries achieved a high level of success in 2003 in meeting the 30-day response standard while dealing with a large volume of requests. As with last year, the ministries of the Attorney General, Consumer and Business Services, Labour, and Transportation met the statutory standard for more than 80 per cent of their requests. Joining this group in 2003 is the Ministry of Community and Social Services (including what is now the Ministry of Children's Services). When the issuance of Notices is considered, the Ministry of Community Safety and Correctional Services also met its compliance obligations in excess of 80 per cent of the time.

For the first time since the IPC began reporting the compliance rate of individual ministries in 1999, every ministry that received at least 100 requests achieved at least a 50 per cent compliance rate. In fact, when the issuance of Notices is taken into consideration, the lowest compliance rate of ministries receiving this number of requests is the Ministry of Natural Resources at 72 per cent. All in all, this is a highly significant accomplishment.

Municipal Organizations

For the first time in many years, provincial institutions outperformed municipal institutions in terms of meeting the 30-day response standard. Overall, municipal government organizations responded to 72.1 per cent of requests within the required timeframe. This is a decrease from 75.9 per cent in 2002, and continues the steady downtrend reported on in last year's annual report. Two institutions, the City of Toronto and Toronto Police Services, had a significant impact on the compliance rate. If their numbers are removed, the overall compliance rate for municipal institutions jumps to 89.3 per cent.

Municipalities

In the accompanying charts, the individual response rates for the municipalities that received the most requests (in each of three population categories) are cited. Also cited are the police services and health boards that received the most requests.

Overall, municipal corporations had a 30-day compliance rate of 66.1 per cent. But when the City of Toronto is excluded, this climbs to an outstanding 96.6 per cent. The City of Hamilton improved its compliance rate for the second consecutive year, climbing to 92.8 per cent from 84.4 per cent. The cities of Mississauga and Ottawa and the Regional Municipality of York continued to achieve high levels of success. Toronto's response rate, however, fell to 58.7 per cent, a drop of nearly nine per cent from 2002. This can be explained to some extent by a shortage of staff during the year and in increase of more than eight per cent in the number of requests received.

Small- to medium-sized municipalities had outstanding compliance rates during 2003, maintaining the status quo from previous years. Among smaller municipalities, the Township of Dorion and the Town of Innisfil had 100 per cent compliance with the 30-day standard. Likewise, two medium-sized municipalities, the Town of Richmond Hill and the City of Thunder Bay, achieved 100 per cent compliance, for which they are all to be highly commended.

Police Services

Police services continued to have generally good compliance rates in 2003, with an overall 30-day compliance rate of 77.3 per cent. When Toronto Police Services is excluded, the overall compliance rate for police services is 85.2 per cent.

Once again, Halton Regional Police Services earned particular note for maintaining a 100 per cent compliance rate. When section 20 and 21 Notices are taken into account, the compliance rates for the Durham Regional Police Service and the Niagara Regional Police Service are a commendable 80.5 per cent and 95.4 per cent respectively.

As noted in last year's report, the performance of the Toronto Police Service continues to negatively impact on the overall compliance rate. In 2003, only 32.5 per cent of requests filed to that police service were responded to within 30 days, down from 34.3 per cent in 2002. When section 20 and 21 Notices are factored in, the compliance rate for 2003 still only reached 35.6 per cent (42.9 per cent in 2002). The Toronto Police Service notes an increase in the complexity of requests, the departure of experienced staff during the year, and an increase in the number of requests in excess of eight per cent, as factors leading to this poor performance.

Health Boards

This year, we are reporting on the compliance rates of local health units for the first time. Compared to municipal corporations and police services boards, these institutions receive a modest number of access requests. In responding to these requests, their collective record is excellent. Of all the requests filed with the eight health units that received the most requests during 2003, all but one request was responded to within the 30-day timeframe. Special note should be made of the excellent performance of the Brant County Health Unit, which, with 169 requests, was the most active but still maintained a 100 per cent compliance rate.

Top Five Municipal Corporations *(Population under 50,000) based on numbers of requests completed*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 days No. of Requests	%
Town of Caledon (44,820)	32	31	29	93.6	1	3.2	1	3.2	0	0.0
City of Clarence-Rockland (21,200)	17	17	14	82.4	3	17.6	0	0.0	0	0.0
Township of Dorion (385)	29	29	29	100.0	0	0.0	0	0.0	0	0.0
Town of Georgina (35,035)	77	77	75	97.4	2	2.6	0	0.0	0	0.0
Town of Innisfil (26,714)	21	22	22	100.0	0	0.0	0	0.0	0	0.0

Top Five Municipal Corporations *(Population between 50,000 and 200,000) based on numbers of requests completed*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 days No. of Requests	%
City of Kitchener (187,700)	235	235	231	98.3	0	0.0	4	1.7	0	0.0
Town of Oakville (132,696)	265	263	261	99.2	1	0.4	0	0.0	1	0.4
Town of Richmond Hill (155,000)	336	336	336	100.0	0	0.0	0	0.0	0	0.0
City of Thunder Bay (112,488)	91	92	92	100.0	0	0.0	0	0.0	0	0.0
City of Vaughan (220,000)	125	126	124	98.4	2	1.6	0	0.0	0	0.0

Top Five Municipal Corporations *(Population over 200,000) based on numbers of requests completed*

	Requests Received	Requests Completed	Within 1-30 days No. of Requests	%	Within 31-60 days No. of Requests	%	Within 61-90 days No. of Requests	%	More than 90 days No. of Requests	%
City of Hamilton (489,457)	189	181	168	92.8	11	6.1	2	1.1	0	0.0
City of Mississauga (641,5000)	401	401	398	99.3	2	0.5	1	0.2	0	0.0
City of Ottawa (719,543)	383	356	335	94.1	15	4.2	2	0.6	4	1.1
City of Toronto (2,481,494)	3,366	3,327	1,953	58.7	487	14.6	299	9.0	588	17.7
Regional Municipality of York (842,200)	84	76	67	88.2	9	11.8	0	0.0	0	0.0

Top Five Municipal Corporations *Compliance including Notice of Extension and Notice to Third Parties (Population under 50,000) based on number of requests completed*

	30 day compliance %	Compliance including s. 20(1) / 21(1) %
Town of Caledon (44,820)	93.6	96.8
City of Clarence-Rockland (21,200)	82.4	82.4
Township of Dorion (383)	100.0	100.0
Town of Georgina (35,035)	97.4	97.4
Town of Innisfil (26,714)	100.0	100.0

Top Five Municipal Corporations *Compliance including Notice of Extension and Notice to Third Parties (Population between 50,000 and 200,000) based on number of requests completed*

	30 day compliance %	Compliance including s. 20(1) / 21(1) %
City of Kitchener (187,700)	98.3	100.0
Town of Oakville (132,696)	99.2	99.2
Town of Richmond Hill (155,000)	100.0	100.0
City of Thunder Bay (112,488)	100.0	100.0
City of Vaughan (220,000)	98.4	100.0

Top Five Municipal Corporations *Compliance including Notice of Extension and Notice to Third Parties (Population over 200,000) based on number of requests completed*

	30 day compliance %	Compliance including s. 20(1) / 21(1) %
City of Hamilton (489,457)	92.8	98.3
City of Mississauga (641,500)	99.3	99.5
City of Ottawa (719,543)	94.1	94.1
City of Toronto (2,481,494)	58.7	58.8
Regional Municipality of York (842,200)	88.2	94.7

Top Five Municipal Corporations

	32	31	29	93.6	1	3.2	1	3.2	0	0.0
	17	17	14	82.4	3	17.6	0	0.0	0	0.0
	29	29	29	100.0	0	0.0	0	0.0	0	0.0
	77	77	75	97.4	2	2.6	0	0.0	0	0.0
	21	22	22	100.0	0	0.0	0	0.0	0	0.0

Top Five Municipal Corporations

	235	235	231	98.3	0	0.0	4	1.7	0	0.0
	265	263	261	99.2	1	0.4	0	0.0	1	0.4
	336	336	336	100.0	0	0.0	0	0.0	0	0.0
	91	92	92	100.0	0	0.0	0	0.0	0	0.0
	125	126	124	98.4	2	1.6	0	0.0	0	0.0

Top Five Municipal Corporations

	189	181	168	92.8	11	6.1	2	1.1	0	0.0
	401	401	398	99.3	2	0.5	1	0.2	0	0.0
	353	356	335	94.1	15	4.2	2	0.6	4	1.1
	3,366	3,427	1,953	58.7	487	14.6	299	9.0	588	17.7
	84	76	67	88.2	9	11.8	0	0.0	0	0.0

Top Five Municipal Corporations *Compliance monitoring, Notice of Extension with Notice to Third Parties (Registration only), 2014/15*

	93.6	96.8
	82.4	82.4
	100.0	100.0
	97.4	97.4
	100.0	100.0

Top Five Municipal Corporations *Compliance monitoring, Notice of Extension and Notice to Third Parties (Registration only), 2014/15*

	98.3	100.0
	99.2	99.2
	100.0	100.0
	100.0	100.0
	98.4	100.0

Top Five Municipal Corporations *Compliance monitoring, Notice of Extension and Notice to Third Parties (Registration only), 2014/15*

	92.8	98.3
	99.5	99.5
	94.1	94.1
	58.7	58.8
	88.2	94.7

Top Eight Health Boards *ranked on number of requests completed*

	Requests Received	*Requests Completed*	*Within 1-30 days* No. of Requests	%	*Within 31-60 days* No. of Requests	%	*Within 61-90 days* No. of Requests	%	*More than 90 days* No. of Requests	%
Brant County Health Unit	169	169	169	100.0	0	0.0	0	0.0	0	0.0
Grey Bruce Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Hasting & Prince Edward Counties Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Kingston, Frontenac and Lennox & Addington Health Unit	2	3	3	100.0	0	0.0	0	0.0	0	0.0
North Bay & District Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Simcoe County District Health Unit	11	11	11	100.0	0	0.0	0	0.0	0	0.0
Sudbury & District Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Windsor-Essex County Health Unit	26	25	24	96.0	1	4.0	0	0.0	0	0.0

Top Five Police Institutions *ranked on number of requests completed*

	Requests Received	*Requests Completed*	*Within 1-30 days* No. of Requests	%	*Within 31-60 days* No. of Requests	%	*Within 61-90 days* No. of Requests	%	*More than 90 days* No. of Requests	%
Durham Regional Police Service	598	586	459	78.3	111	18.9	15	2.6	1	0.2
Halton Regional Police Service	650	617	617	100.0	0	0.0	0	0.0	0	0.0
Hamilton Police Service	1218	1245	884	71.0	276	22.2	65	5.2	20	1.6
Niagara Regional Police Service	696	690	581	84.2	107	15.5	2	0.3	0	0.0
Toronto Police Service	2774	2794	908	32.5	593	21.2	451	16.1	840	30.1

Top Eight Health Boards *ranked on number of requests completed*

Compliance including Notice of Extension and Notice to Third Parties

	30 day compliance %	*Compliance including s. 20(1) / 21(1) %*
Brant County Health Unit	100.0	100.0
Grey Bruce Health Unit	100.0	100.0
Hastings & Prince Edward Counties Health Unit	100.0	100.0
Kingston, Frontenac and Lennox & Addington Health Unit	100.0	100.0
North Bay & District Health Unit	100.0	100.0
Simcoe County District Health Unit	100.0	100.0
Sudbury & District Health Unit	100.0	100.0
Windsor-Essex County Health Unit	96.0	96.0

Top Five Police Institutions *ranked on number of requests completed*

Compliance including Notice of Extension and Notice to Third Parties

	30 day compliance %	*Compliance including s. 20(1) / 21(1) %*
Durham Regional Police Service	78.3	80.5
Halton Regional Police Service	100.0	100.0
Hamilton Police Service	71.0	75.6
Niagara Regional Police Service	84.2	95.4
Toronto Police Service	32.5	35.6

Top Eight Health Boards

Brant County Health Unit	169	169	169	100.0	0	0.0	0	0.0	0	0.0
Grey Bruce Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Hastings & Prince Edward Counties Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Kingston, Frontenac and Lennox & Addington Health Unit	2	3	3	100.0	0	0.0	0	0.0	0	0.0
North Bay & District Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Simcoe County District Health Unit	11	11	11	100.0	0	0.0	0	0.0	0	0.0
Sudbury & District Health Unit	2	2	2	100.0	0	0.0	0	0.0	0	0.0
Windsor-Essex County Health Unit	26	25	24	96.0	1	4.0	0	0.0	0	0.0

Top Five Police Institutions

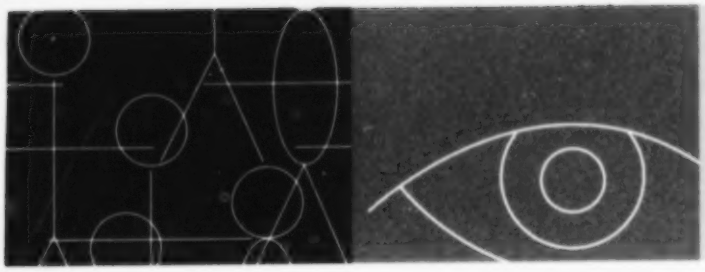
Durham Regional Police Service	598	586	459	78.3	111	18.9	15	2.6	1	0.2
Halton Regional Police Service	650	617	617	100.0	0	0.0	0	0.0	0	0.0
Hamilton Police Service	1218	1245	884	71.0	276	22.2	65	5.2	20	1.6
Niagara Regional Police Service	696	690	581	84.2	107	15.5	2	0.3	0	0.0
Toronto Police Service	2774	2794	908	32.5	593	21.2	451	16.1	840	30.1

Top Eight Health Boards

[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	100.0	100.0
[illegible]	96.0	96.0

Top Five Police Institutions

[illegible]	78.3	80.5
[illegible]	100.0	100.0
[illegible]	71.0	75.6
[illegible]	84.2	95.4
[illegible]	42.5	35.6



ACCESS

The concept of any individual being able to access government-held information is one of the fundamental principles of accountable government and participatory democracy.

This principle is reflected in the provincial and municipal *Acts*, which provide that, subject to limited and specific exemptions, information under the control of government organizations should be available to the public. Records that do not contain the personal information of the requester are referred to as "general records."

If you make a request under one of the *Acts* to a provincial or municipal government organization and are not satisfied with the response, you can appeal the decision to the IPC. General records appeals can be filed concerning a refusal to provide access to general records, the amount of fees charged, the fact that the organization did not respond within the prescribed 30-day period, or other procedural aspects relating to a request. (Appeals relating to requests for access to one's own personal information are covered in this annual report in the chapter entitled *Privacy*.)

When an appeal is received, the IPC first attempts to settle it informally. If all issues cannot be resolved within a reasonable period of time, the IPC may conduct an inquiry and issue a binding order, which could include ordering the government organization to release all or part of the requested information.

STATISTICAL OVERVIEW

Overall, 947 appeals regarding access to general records and personal information were made to the IPC in 2003, an increase of three per cent over 2002. The number of appeals closed in 2003 was 966, an increase of 15 per cent over 2002.

Access to General Records

APPEALS OPENED

The IPC received 587 appeals regarding access to general records in 2003. Of these, virtually half, 296, were filed under the provincial *Act*, while 291 were filed under the municipal *Act*.

Of the 296 provincial general records appeals received, 248 (84 per cent) involved ministries and 48 (16 per cent) involved agencies. The Ministry of Community Safety and Correctional Services was involved in the largest number of general records appeals (46). The Ministry of Health and Long-Term Care had the next highest number (45), followed by the ministries of Environment (39), Natural Resources (22), Community, Family and Children's Services (12) and the Attorney General (12). The agencies with the highest number of general records appeals included the Public Guardian and Trustee (eight), Ontario Rental Housing Tribunal (eight), Centennial College (seven), Archives of Ontario (five) and the Criminal Injuries Compensation Board (three).

Of the 291 municipal general records appeals received, 190 (65 per cent) involved municipal corporations, 59 (20 per cent) involved the police, and 18 (six per cent) involved boards of education. An additional 24 (eight per cent) appeals involved other types of municipal institutions.

In terms of the issues raised, 49 per cent of appeals were related to the exemptions claimed by institutions in refusing to grant access. An additional eight per cent concerned exemptions with other issues. Twelve per cent of appeals were the result of deemed refusals to provide access, in which the institution did not respond to the request within the timeframe required by the *Acts*. In about eight per cent of appeals, the issue was whether the institution had conducted a reasonable search for the records requested. Five per cent were third party appeals. The remaining appeals were related to fees, time extensions and other issues.

Provincial institutions with the largest number of deemed refusal appeals included Health and Long-Term Care (10), Community, Family and Children's Services (seven), Natural Resources (four), Community, Safety and Correctional Services (three) and Environment (three). Municipal institutions with the largest number of deemed refusal appeals included the City of Toronto (13), the Toronto Police Services Board (four), the City of Kitchener (four) and the Regional Municipality of Peel (four). No other provincial or municipal institution had more than two deemed refusal appeals.

Most appellants were individual members of the public (47 per cent). A substantial portion of appellants was from the business community (33 per cent). (For example, if a company were to appeal a denial of access to a competitor's bid for a government contract, the appellant would be categorized as a business.) Other appellants were categorized as media (eight per cent), associations (five per cent), government (three per cent), unions (two per cent), academics/researchers (two per cent) and politicians (one per cent). (With respect to the category of government, if a municipality were to appeal a decision of a provincial government institution, the appellant would be categorized as government.)

Lawyers (92) and agents (10) represented appellants in 17 per cent of the general records appeals made in 2003.

In 2003, $11,165 in application fees for general record appeals was paid to the IPC.

APPEALS CLOSED

The IPC closed 604 general records appeals during 2003. Of these, 326 (54 per cent) concerned provincial institutions and 278 (46 per cent) concerned municipal institutions.

Sixty-seven per cent of general records appeals were closed without the issuance of a formal order. Of the appeals closed by means other than order, five per cent were screened out (not within the IPC's jurisdiction or not applicable), 60 per cent were mediated in full, 33 per cent were withdrawn, two per cent were abandoned, and one per cent dismissed without an inquiry. Of the 205 general records appeals that were not mediated in full and went on to adjudication, 98 appeals (48 per cent) were mediated in part during the mediation stage.

Of the 604 general records appeals closed in 2003, 23 per cent were closed during the intake stage, 43 per cent during the mediation stage, and 34 per cent during the adjudication stage.

Of the appeals closed during the intake stage, 76 per cent were withdrawn, 15 per cent were screened out and nine per cent were closed by issuing a formal order. Of the appeals closed during the mediation stage, 94 per cent were mediated in full, three per cent were closed by issuing a formal order, three per cent were withdrawn, and one per cent abandoned. Of the appeals closed during the adjudication stage, 87 per cent were closed by issuing a formal order, nine per cent were withdrawn, two per cent were abandoned, and one per cent dismissed without an inquiry.

In 2003, 33 per cent of general records appeals were closed by issuing an order. The IPC issued a total of 158 final orders pertaining to general records – 81 provincial and 77 municipal orders[1]. In addition, the IPC issued eight interim orders – four provincial and four municipal[2].

In the general records appeals resolved by order, the decision of the head was upheld in 30 per cent and partly upheld in 43 per cent of cases. The head's decision was not upheld in about 17 per cent of the appeals closed by order. Ten per cent of the orders issued in 2003 had other outcomes.

[1] *The number of appeals closed by order exceeds the number of orders, since one order may close more than one appeal.*

[2] *Overall, the IPC issued a total of 244 final orders – 158 pertaining to access to general records and 86 pertaining to access to personal information. Also, the IPC issued 12 interim orders – eight pertaining to access to general records and four pertaining to access to personal information.*

Issues in General Records Appeals

	Provincial	%	*Municipal*	%	*Total*	%
Exemptions	142	48.0	145	50.2	287	48.9
Exemptions with other issues	22	7.4	25	8.6	47	8.0
Deemed refusal	38	12.8	33	11.3	71	12.1
Reasonable search	18	6.1	26	8.9	44	7.5
Interim decision	10	3.4	1	0.3	11	1.9
Third party	18	6.1	9	3.1	27	4.6
Fees	14	4.7	9	3.1	23	3.9
Time extension	3	1.0	7	2.4	10	1.7
Frivolous/vexatious request	0	0	3	1.0	3	0.5
Transfer	2	0.7	0	0	2	0.3
Failure to disclose	1	0.3	0	0	1	0.2
Other	28	9.5	33	11.3	61	10.4
Total	**296**	**100**	**291**	**100**	**587**	**100**

Types of Appellants

	Provincial	%	*Municipal*	%	*Total*	%
Academic/researcher	8	2.7	2	0.7	10	1.7
Business	92	31.1	103	35.4	195	33.2
Government	15	5.1	1	0.3	16	2.7
Individual	131	44.2	143	49.1	274	46.7
Media	21	7.1	28	9.6	49	8.4
Association/group	19	6.4	11	3.8	30	5.1
Politician	3	1.0	1	0.3	4	0.7
Union	7	2.4	2	0.7	9	1.5
Total	**296**	**100**	**291**	**100**	**587**	**100**

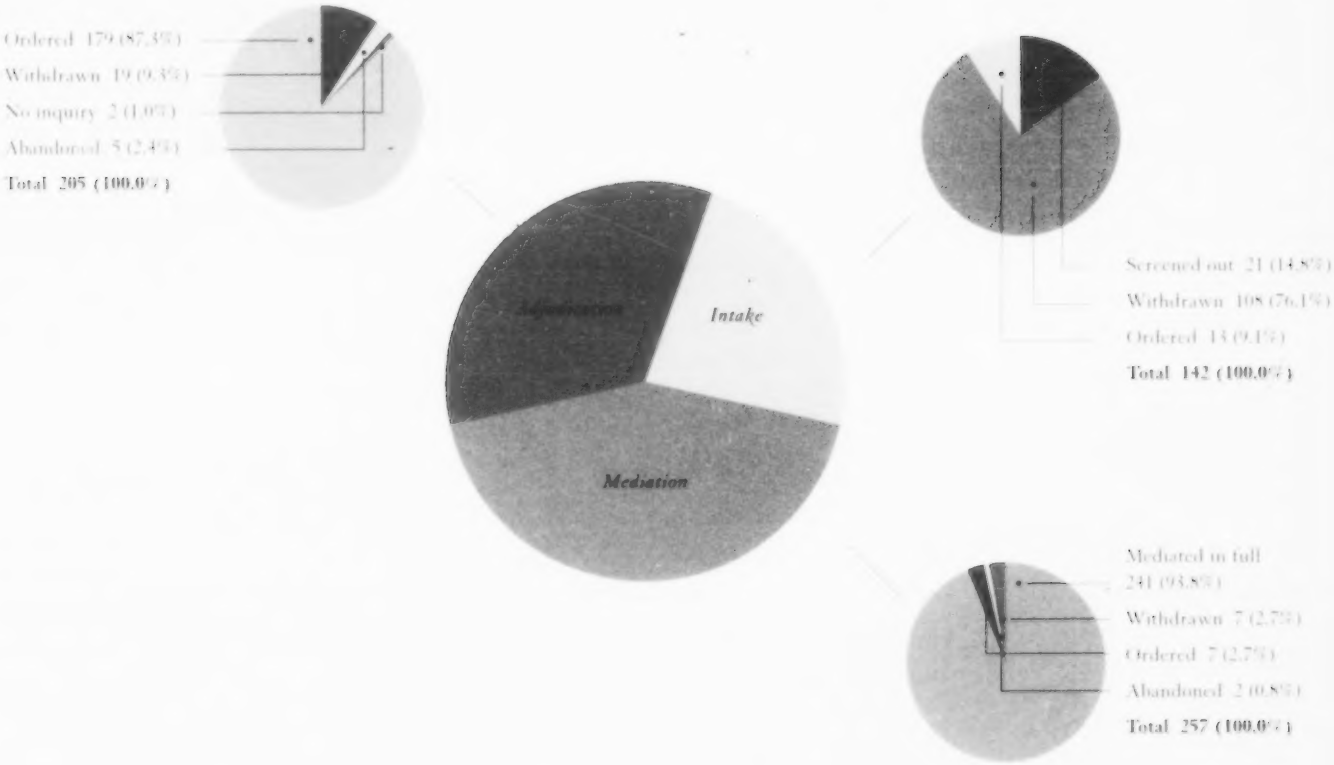
Outcome of Appeals Closed Other Than by Order

	Provincial	%	*Municipal*	%	*Total*	%
Screened out	7	3.3	14	7.2	21	5.2
Mediated in full	122	57.8	119	61.3	241	59.5
Withdrawn	77	36.5	57	29.4	134	33.1
Abandoned	4	1.9	3	1.6	7	1.7
No inquiry	1	0.5	1	0.5	2	0.5
Total	**211**	**100**	**194**	**100**	**405**	**100**

Outcome of Appeals Closed by Order

Head's Decision	*Provincial*	%	*Municipal*	%	*Total*	%
Upheld	28	24.5	31	36.9	59	29.6
Partly upheld	62	54.4	24	28.6	86	43.2
Not upheld	15	13.2	19	22.6	34	17.1
Other	10	7.9	10	11.9	20	10.1
Total	**115**	**100**	**84**	**100**	**199**	**100**

Outcome of Appeals by Stage Closed



Issues in General Records Appeals

[illegible]	142	48.0	145	50.2	287	48.9
[illegible]	22	7.4	25	8.6	47	8.0
[illegible]	38	12.8	33	11.3	71	12.1
[illegible]	18	6.1	26	8.9	44	7.5
[illegible]	10	3.4	1	0.3	11	1.9
[illegible]	18	6.1	9	3.1	27	4.6
[illegible]	14	4.7	9	3.1	23	3.9
[illegible]	3	1.0	7	2.4	10	1.7
[illegible]	0	0	3	1.0	3	0.5
[illegible]	2	0.7	0	0	2	0.3
[illegible]	1	0.3	0	0	1	0.2
[illegible]	28	9.5	33	11.3	61	10.4
Total	**296**	**100**	**291**	**100**	**587**	**100**

Types of Appellants

[illegible]	8	2.7	2	0.7	10	1.7
[illegible]	92	31.1	103	35.4	195	33.2
[illegible]	15	5.1	1	0.3	16	2.7
[illegible]	131	44.2	143	49.1	274	46.7
[illegible]	21	7.1	28	9.6	49	8.4
[illegible]	19	6.4	11	3.8	30	5.1
[illegible]	3	1.0	1	0.3	4	0.7
[illegible]	7	2.4	2	0.7	9	1.5
Total	**296**	**100**	**291**	**100**	**587**	**100**

Outcome of Appeals Closed Other Than by Order

[illegible]	7	3.3	14	7.2	21	5.2
[illegible]	122	57.8	119	61.3	241	59.5
[illegible]	77	36.5	57	29.4	134	33.1
[illegible]	4	1.9	3	1.6	7	1.7
[illegible]	1	0.5	1	0.5	2	0.5
Total	**211**	**100**	**194**	**100**	**405**	**100**

Outcome of Appeals Closed by Order

	28	24.5	31	46.9	59	29.6
	62	54.4	24	28.6	86	43.2
	15	13.2	19	22.6	34	17.1
	10	7.9	10	11.9	20	10.1
Total	**115**	**100**	**84**	**100**	**199**	**100**

Outcome of Appeals by Stage Closed

Total 205 (100.0%)

Total 142 (100.0%)

Total 257 (100.0%)

PRIVACY

To protect personal privacy, the provincial and municipal *Acts* establish rules that govern the collection, retention, use, disclosure, security, and disposal of personal information held by government organizations.

If you believe a provincial or municipal government organization has failed to comply with one of the *Acts* and that your privacy has been compromised as a result, you can file a complaint with the IPC. In the majority of cases, the IPC attempts to mediate a solution. The IPC may make formal recommendations to a government organization to amend its practices.

Statistical Overview

Overall, 104 privacy complaints were **opened** in 2003, compared to 119 in 2002. There were 128 privacy complaints **closed** in 2003, compared to 99 the previous year.

Fifty-six of the complaints opened in 2003 (54 per cent) were filed under the provincial *Act* and 46 (44 per cent) under the municipal *Act*. Two non-jurisdictional complaints were filed in 2003. Of the 104 complaints opened, 79 (76 per cent) were initiated by individuals and 25 (24 per cent) were initiated by the Commissioner.

The complaints that were resolved in 2003 involved 140 issues. The disclosure of personal information was the most frequent issue, raised in 61 per cent of complaints. The collection of personal information was an issue in 25 per cent, security was an issue in four per cent, and the use of personal information was an issue in two per cent of complaints. Seven per cent of the complaints involved other issues, including retention, disposal, access, personal information, notice of collection, and general privacy issues.

Eighty-four per cent of the issues raised in the privacy complaints were disposed of without the need for a finding. For the issues requiring a finding, institutions were found to have complied with the *Acts* for 27 per cent and not to have complied for 73 per cent of the issues.

While processing privacy complaints, the IPC continues to emphasize informal resolution. Consistent with this approach, of the 128 privacy complaints closed in 2003, 81 per cent were closed without the issuance of a formal privacy complaint report. Sixty-six per cent of complaints were closed during the intake stage. Of those that were closed during intake, 16 per cent were screened out, one per cent abandoned, 26 per cent were withdrawn, and 57 per cent were resolved informally. Thirty-four per cent of complaints proceeded to the investigation stage. Of the complaints closed during the investigation stage, 46 per cent were settled, and 55 per cent were closed by issuing a report. Twenty-four privacy complaint reports were issued in 2003. These reports contained 39 recommendations to government organizations.

Of the 128 complaints closed in 2003, individual members of the public initiated 79 per cent while the Commissioner initiated 21 per cent.

Summary of Privacy Complaints - 2003

	2002 Privacy Complaints				2003 Privacy Complaints			
	Provincial	*Municipal*	*Non-jurisdictional*	*Total*	*Provincial*	*Municipal*	*Non-jurisdictional*	*Total*
Opened	59	53	7	119	56	46	2	104
Closed	54	38	7	99	66	60	2	128

Number of Privacy Complaints Closed 1998-2003

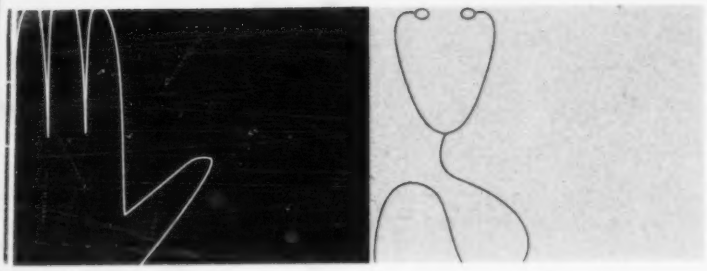
	Provincial	*Municipal*	*Non-jurisdictional*	*Total*
1998	42	54		96
1999	40	48		88
2000	39	41	2	82
2001	61	28	6	95
2002	54	38	7	99
2003	66	60	2	128

Privacy Complaints by Type of Resolution

	Provincial	*%*	*Municipal*	*%*	*Non-jurisdictional*	*%*	*Total*	*%*
Screened out	3	4.5	10	16.7			13	10.2
Abandoned	0	0	1	1.7			1	0.8
Withdrawn	14	21.2	6	10.0	2	100	22	17.2
Settled	8	12.1	12	20.0			20	15.6
Informal resolution	25	37.9	23	38.3			48	37.5
Report	16	24.2	8	13.3			24	18.7
Total	**66**	**100**	**60**	**100**	**2**	**100**	**128**	**100**

Source of Complainants

	Provincial	*%*	*Municipal*	*%*	*Non-jurisdictional*	*%*	*Total*	*%*
Individual	44	66.7	55	91.7	2	100	101	78.9
IPC Commissioner initiated	22	33.3	5	8.3			27	21.1
Total	**66**	**100**	**60**	**100**	**2**	**100**	**128**	**100**



PRIVACY

To protect personal privacy, the provincial and municipal Acts establish rules that govern the collection, retention, use, disclosure, security and disposal of personal information held by government organizations.

If you believe a provincial or municipal government organization has failed to comply with one of the Acts and that your privacy has been compromised as a result, you can file a complaint with the IPC. In the majority of cases, the IPC attempts to mediate a solution. The IPC may make formal recommendations to a government organization to amend its practices.

Statistical Overview

Overall, 104 privacy complaints were **opened** in 2003, compared to 113 in 2002. There were 128 privacy complaints **closed** in 2003, compared to 97 the previous year.

Forty-seven of the complaints opened in 2003 (45 per cent) were filed under the provincial Act and in 55 per cent under the municipal Act. Thirteen jurisdictional complaints were filed in 2003. Of the 104 complaints opened, 75 (72 per cent) were initiated by individuals and 28 (27 per cent) were initiated by the Commissioner.

The complaints that were resolved in 2003 involved 130 issues. The disclosure of personal information was the most frequently raised issue (in 61 per cent of complaints). The collection of personal information was an issue in 28 per cent, security was an issue in four per cent, and the use of personal information was an issue in two per cent of complaints. Seven per cent of the complaints involved other issues, including retention, disposal, access, personal information, notice of collection, and general privacy matters.

Eighty-four per cent of the issues raised in the privacy complaints were disposed of without the need for a finding. For the issues requiring a finding, institutions were found to have complied with the Act for 27 per cent and not to have complied for 73 per cent of the issues.

When processing privacy complaints, the IPC continues to emphasize informal resolution. Consistent with this approach, of the 128 privacy complaints closed in 2003, 81 per cent were closed without the issuance of a formal privacy complaint report. Sixty-seven per cent of complaints were closed during the intake stage. Of those that were closed during intake, 61 per cent were screened out, one per cent abandoned, 21 per cent were withdrawn and 87 per cent were resolved informally. Fifty-four per cent of complaints proceeded to the investigation stage. Of the complaints closed during the investigation stage, 49 per cent were settled and 55 per cent were closed by issuing a report. Twenty-four privacy complaint reports were issued in 2003. Three were commissioner-initiated investigations into the practices of government organizations.

Of the 128 complaints closed in 2003, municipal government was the public initiated 75 per cent of the time, the Commissioner initiated 25 per cent.

Summary of Privacy Complaints – 2003

	59	35	7	101	56	46	2	104
	54	38	7	99	66	60	2	128

Number of Privacy Complaints Closed 1998-2003

	Provincial	*Municipal*	*Non-jurisdictional*	*Total*
1998	42	54	-	**96**
1999	40	48		**88**
2000	39	41	2	**82**
2001	61	28	6	**95**
2002	54	38	7	**99**
2003	66	60	2	**128**

Privacy Complaints by Type of Resolution

	Provincial		*Municipal*		*Non-jurisdictional*		*Total*	
Screened out	3	4.5	10	16.7			13	10.2
Abandoned	0	0	1	1.7			1	0.8
Withdrawn	14	21.2	6	10.0	2	100	22	17.2
Settled	8	12.1	12	20.0			20	15.6
Informal resolution	25	37.9	23	38.3			48	37.5
Report	16	24.2	8	13.3			24	18.7
Total	**66**	**100**	**60**	**100**	**2**	**100**	**128**	**100**

Source of Complainants

	Provincial		*Municipal*		*Non-jurisdictional*		*Total*	
Individual	44	66.7	55	91.7	2	100	101	78.9
IPC Commissioner-initiated	22	33.3	5	8.3			27	21.1
Total	66	100	60	100	2	100	128	100

Privacy Complaints by Type of Resolution and Stage Closed

	Intake	%	*Investigation*	%	*Total*	%
Screened out	13	15.5			13	10.2
Abandoned	1	1.2			1	0.8
Withdrawn	22	26.2			22	17.2
Settled			20	45.5	20	15.6
Informal resolution	48	57.1			48	37.5
Report			24	54.5	24	18.7
Total	**84**	**100**	**44**	**100**	**128**	**100**

Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Disclosure	46	63.0	40	61.5			86	61.4
Collection	16	21.9	17	26.2	2	100	35	25.0
Use	1	1.4	2	3.1			3	2.1
Security	5	6.8	1	1.5			6	4.3
Retention	1	1.4	1	1.5			2	1.4
Disposal	0	0	1	1.5			1	0.7
Access	1	1.4	0	0			1	0.7
Personal information	0	0	2	3.1			2	1.4
Notice of collection	1	1.4	1	1.5			2	1.4
General privacy	2	2.7	0	0			2	1.4
Total	**73**	**100**	**65**	**100**	**2**	**100**	**140**	**100**

** The number of issues does not equal the number of complaints closed, as some complaints involve more than one issue.*

Outcome of Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Did not comply with the Act	11	15.1	5	7.7			16	11.4
Complied with the Act	3	4.1	3	4.6			6	4.3
Act does not apply	4	5.5	6	9.2	2	100	12	8.6
Resolved – finding not necessary	54	73.9	50	76.9			104	74.3
Unable to conclude	1	1.4	1	1.5			2	1.4
Total	**73**	**100**	**65**	**100**	**2**	**100**	**140**	**100**

** The number of issues does not equal the number of complaints, as some complaints involve more than one issue.*

Privacy Complaints by Type of Resolution and Stage Closed

	Intake	%	*Investigation*	%	*Total*	%
Screened out	13	15.5			13	10.2
Abandoned	1	1.2			1	0.8
Withdrawn	22	26.2			22	17.2
Settled			20	45.5	20	15.6
Informal resolution	48	57.1			48	37.5
Report			24	54.5	24	18.7
Total	**84**	**100**	**44**	**100**	**128**	**100**

Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Disclosure	46	63.0	40	61.5			86	61.4
Collection	16	21.9	17	26.2	2	100	35	25.0
Use	1	1.4	2	3.1			3	2.1
Security	5	6.8	1	1.5			6	4.3
Retention	1	1.4	1	1.5			2	1.4
Disposal	0	0	1	1.5			1	0.7
Access	1	1.4	0	0			1	0.7
Personal information	0	0	2	3.1			2	1.4
Notice of collection	1	1.4	1	1.5			2	1.4
General privacy	2	2.7	0	0			2	1.4
Total	**73**	**100**	**65**	**100**	**2**	**100**	**140**	**100**

** The number of issues does not equal the number of complaints closed, as some complaints involve more than one issue.*

Outcome of Issues* in Privacy Complaints

	Provincial	%	*Municipal*	%	*Non-jurisdictional*	%	*Total*	%
Did not comply with the *Act*	11	15.1	5	7.7			16	11.4
Complied with the *Act*	3	4.1	3	4.6			6	4.3
Act does not apply	4	5.5	6	9.2	2	100	12	8.6
Resolved – finding not necessary	54	73.9	50	76.9			104	74.3
Unable to conclude	1	1.4	1	1.5			2	1.4
Total	**73**	**100**	**65**	**100**	**2**	**100**	**140**	**100**

** The number of issues does not equal the number of complaints, as some complaints involve more than one issue.*

Personal Information Appeals

The *Acts* also provide a right of access to, and correction of, your personal information. If you make a request under one of the *Acts* to a provincial or municipal government organization for your personal information, and you are not satisfied with the response, you can appeal the decision to the IPC. Personal information appeals can be filed concerning a refusal to provide access to your personal information, a refusal to correct your personal information, the amount of fees charged, the fact that the organization did not respond within the prescribed 30-day period, or other procedural aspects relating to a request. (Appeals relating to requests for access to general records are covered in the chapter entitled *Access*.)

When an appeal is received, the IPC first attempts to settle it informally. If all the issues cannot be resolved within a reasonable period of time, the IPC may conduct an inquiry and issue a binding order, which could include ordering the government organization to release all or part of the requested information.

STATISTICAL OVERVIEW

In 2003, 947 appeals regarding access to general records and personal information were made to the IPC, an increase of three per cent over 2002. The overall number of appeals closed in 2003 was 966, an increase of 15 per cent over 2002.

ACCESS AND CORRECTION OF PERSONAL INFORMATION

Appeals Opened

Overall, 360 appeals regarding access to – or correction of – personal information were made to the IPC in 2003. Of these, 175 (49 per cent) were filed under the provincial *Act* and 185 (51 per cent) under the municipal *Act*.

Of the 175 provincial personal information appeals received, 135 (77 per cent) involved ministries and 40 (23 per cent) involved agencies. The Ministry of Community Safety and Correctional Services was involved in the largest number of personal information appeals (92). The Ministry of Health and Long-Term Care had the next highest number (13), followed by the Attorney General (nine) and Community, Family and Children's Services (nine). The agencies with the highest number of personal information appeals included the Ontario Human Rights Commission (15), the Education Quality and Accountability Office (four), the Public Guardian and Trustee (three) and Sheridan College (three).

Of the 185 municipal personal information appeals received, 136 (73 per cent) involved the police, 27 (15 per cent) involved municipal corporations, and 11 (six per cent) involved boards of education. Eleven appeals (six per cent) involved other types of municipal institutions.

Sixty-three per cent of personal information appeals were related to the exemptions claimed by institutions in refusing to grant access. An additional eight per cent concerned exemptions with other issues. Eight per cent of personal information appeals were the result of deemed refusals to provide access, in which the institution did not respond to the request within the time frame required by the *Acts*. In about eight per cent of appeals, the issue was whether the institution had conducted a reasonable search for the records requested. Two per cent of appeals were the result of inadequate decisions. The remaining appeals were related to fees, time extensions and various other issues.

Of the provincial institutions, the Ministry of Community Safety and Correctional Services had the highest number of deemed refusals (four). The Attorney General had three deemed refusal appeals. The Ministry of Health and Long-Term Care and Sheridan College each had two deemed refusal appeals. Of the municipal institutions, the Toronto Police Services Board had the highest number of deemed refusal appeals (three). The Municipal Property Assessment Corporation, Sudbury Catholic District School Board and the City of Toronto each had two deemed refusal appeals. No other provincial or municipal institution had more than one deemed refusal appeal pertaining to personal information.

Since personal information appeals, by definition, relate to a request for access and/or correction of one's own personal information, all appellants were categorized as individuals. Lawyers (103) or agents (11) represented appellants in 32 per cent of the personal information appeals made in 2003.

In 2003, $2,290 in application fees for personal information appeals was paid to the IPC.

Appeals Closed

The IPC closed 362 personal information appeals during 2003. Of these, 159 (44 per cent) concerned provincial institutions, while 203 (56 per cent) concerned municipal institutions.

Seventy-four per cent of personal information appeals were closed without the issuance of a formal order. Of the appeals closed by means other than an order, nine per cent were screened out, 60 per cent were mediated in full, 25 per cent were withdrawn, four per cent were abandoned, and three per cent were dismissed without an inquiry. Of the 107 personal information appeals that went on to adjudication, 45 appeals (42 per cent) were mediated in part during the mediation stage. Of the 362 personal information appeals closed in 2003, 23 per cent were closed during the intake stage, 47 per cent were closed during the mediation stage, and 30 per cent were closed during the adjudication stage.

Of the appeals closed during the intake stage, 66 per cent were withdrawn, 28 per cent were screened out and five per cent were abandoned. Of the appeals closed during the mediation stage, 94 per cent were mediated in full, two per cent were closed by issuing a formal order, two per cent were withdrawn, and two per cent were abandoned. And, of the appeals closed during the adjudication stage, 82 per cent were closed by issuing a formal order, eight per cent were withdrawn, seven per cent were dismissed without an inquiry, three per cent were abandoned, and one per cent mediated in full.

In 2003, 26 per cent of personal information appeals were closed by issuing an order. The IPC issued a total of 86 final orders for personal information appeals – 35 provincial and 51 municipal. In addition, the IPC issued four interim orders – one provincial and three municipal.

In appeals resolved by order, the decision of the head was upheld in 61 per cent and partly upheld in 26 per cent of cases. The head's decision was not upheld in 11 per cent of the personal information records appeals closed by order. Two per cent of the orders issued in 2003 had other outcomes. In comparing the outcomes of provincial and municipal orders resolving personal information appeals, the decision of the head was somewhat more likely to be upheld or partly upheld in municipal orders.

Issues in Personal Information Appeals

	Provincial	%	*Municipal*	%	*Total*	%
Exemptions	102	58.3	125	67.6	227	63.1
Exemptions with other issues	20	11.4	10	5.4	30	8.3
Deemed refusal	17	9.7	13	7.0	30	8.3
Reasonable search	15	8.6	12	6.5	27	7.5
Fees	1	0.6	0	0	1	0.3
Time extension	4	2.3	0	0	4	1.1
Inadequate decision	2	1.1	4	2.2	6	1.7
Frivolous/vexatious request	2	1.1	2	1.1	4	1.1
Correction	2	1.1	1	0.5	3	0.8
Third party	1	0.6	1	0.5	2	0.6
Other	9	5.1	17	9.2	26	7.2
Total	**175**	**100**	**185**	**100**	**360**	**100**

Outcome of Appeals Closed by Order

Municipal

Head's Decision

Total 54 **

** Includes one appeal that was closed by an interim order.*

Provincial

Head's Decision

Total 39 **

*** The number of appeals closed by order exceeds the number of orders, since one order may close more than one appeal.*

Outcome of Appeals Closed Other Than by Order

Municipal

Total 142

Provincial

Total 117

Issues in Personal Information Appeals

	Provincial		*Municipal*		*Total*	
Exemptions	102	58.3	125	67.6	227*	63.1
Exemptions with other issues	20	11.4	10	5.4	30	8.3
Deemed refusal	17	9.7	13	7.0	30	8.3
Reasonable search	15	8.6	12	6.5	27	7.5
Fees	1	0.6	0	0	1	0.3
Time extension	4	2.3	0	0	4	1.1
Inadequate decision	2	1.1	4	2.2	6	1.7
Frivolous/vexatious request	2	1.1	2	1.1	4	1.1
Correction	2	1.1	1	0.5	3	0.8
Third party	1	0.6	1	0.5	2	0.6
Other	9	5.1	17	9.2	26	7.2
Total	**175**	**100**	**185**	**100**	**360**	**100**

Outcome of Appeals Closed by Order

Municipal

Head's Decision

Upheld 34

Partly upheld 15

Not upheld 3

Other 2*

Total 54 **

** Includes one appeal that was closed by an interim order.*

Provincial

Head's Decision

Upheld 25

Partly upheld 9

Not upheld 7

Total 39 **

*** The number of appeals closed by order exceeds the number of orders since one order may close more than one appeal.*

Outcome of Appeals Closed Other Than by Order

Municipal

Mediated in full 89

Withdrawn 35

Screened out 12

Abandoned 6

No inquiry 0

Total 142

Provincial

Mediated in full 70

Withdrawn 33

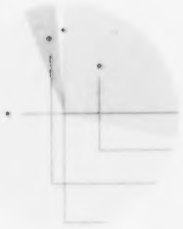
Screened out 12

Abandoned 1

No inquiry 1

Total 117

Outcome of Appeals by Stage Closed



Intake

Adjudication

Mediation

Outcome of Appeals by Stage Closed

HIGH PROFILE PRIVACY INCIDENTS

MINISTRY OF CONSUMER AND BUSINESS SERVICES (PC-020036-1)

The Office of the Registrar General (ORG), part of the Ministry of Consumer and Business Services (the ministry), is responsible for issuing birth, death and marriage certificates. Birth certificates are considered "foundation documents," relied on by other governments and law enforcement agencies to establish proof of identity. Starting in 1996, the ORG partnered with the Land Registry Offices, also part of the ministry, to act as agents in issuing certificates and delivering ORG services, including providing same day service, in 14 communities.

The ministry notified the IPC that a number of completed application forms for certificates were missing from its offices and that it had contacted the police and initiated its own internal audit of all of its offices. The IPC initiated a privacy investigation under the provincial *Act*.

Our investigation reviewed the outcome of the ministry's several internal audits and the outcome of various police investigations. The ministry's audits revealed that more than 80 completed birth certificate and other applications were missing from three of its regional offices. A joint police investigation into an apparently unrelated incident recovered a number of ORG documents, including blank birth certificates and completed application forms. (An individual was charged.) In another joint police investigation, an ORG employee was charged with a number of offences related to removing personal information, removing certificates (birth, death and marriage) and possessing and dealing in documents that purport to establish or could be used to establish a person's identity.

We also confirmed that, where possible, the ministry notified all individuals whose personal information was disclosed and placed a time-limited "flag" against their registrations – meaning that additional security measures were added to prohibit the unauthorized processing of a certificate or certified copy of a registration.

Clearly, in circumstances where there has been a theft of personal information, none of the circumstances under which an institution may disclose personal information apply and therefore the disclosure was not in accordance with the *Act*. Despite this, our investigation found that at the time of the thefts, reasonable measures (in this case, policies and procedures) to prevent unauthorized access to the records were defined, documented and in place. After the recovery of stolen ORG documents by the police, the ministry instituted further security and privacy protections, including an external security and risk assessment. Additional measures, such as a new high security computer system, are pending.

The IPC recommended that:

(1) the ministry implement all measures currently underway and ensure they are reflected in its policies and procedures;

(2) the ministry consult with our office if the ministry considers video surveillance or any other measure that could have a significant privacy impact;

(3) staff be fully trained in the policies, practices, procedures and values of the ministry to ensure the security of personal information before same day service is resumed; and

(4) the registrations for all individuals whose documents are unaccounted for be flagged indefinitely, since the prospect of identity theft is not time-limited.

TORONTO POLICE SERVICES BOARD (MC-030023-1)

A Toronto newspaper reported that a new technology, the Mobile Licence Plate Recognition (MLPR) system, was being tested by the Toronto Police Services Board. The three-month MLPR pilot project involved using a video camera system mounted on the top of a police car (the street sweeper) that scanned the licence plate numbers of parked cars and compared them to a "hot list" of stolen vehicles.

After some fact-finding, the IPC launched a privacy investigation. The IPC found that the police were collecting, using and disclosing licence plate numbers in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*. However, the IPC noted that the police did not have a contract with AutoVu Technologies, the supplier of the MLPR system,

even though the police were disclosing licence plate numbers on a Zip disk to the company. The IPC recommended that, in future projects, the police sign a contract containing strong privacy-protection clauses with any private-sector entity to which the police would disclose personal information.

Although the police were using the street sweeper only to find stolen vehicles, the IPC found that the MLPR system has the capability to be linked with global positioning system (GPS) technology to enforce parking bylaws. A parking control officer could potentially use the GPS-configured version of the MLPR system to scan the licence plate numbers of parked vehicles and also record the location, date and time these vehicles were parked on a street. If set up that way, when the parking control officer returned to the same street and scanned the licence plate numbers of parked vehicles, the system would buzz if a vehicle had been parked longer than the permitted time.

In our investigation report, we stressed we would place any police proposal to use the GPS-configured system under a high degree of scrutiny. The IPC would oppose the police keeping records of the precise location, date and time that all vehicles were parked on a particular street. In particular, such a system should not be used to track and record the movements of law-abiding citizens or used for any other secondary purposes unrelated to law enforcement.

YORK REGION DISTRICT SCHOOL BOARD (MC-010032-1) AND YORK CATHOLIC DISTRICT SCHOOL BOARD (MC-010036-1)

A story in a Toronto newspaper cited a website, jointly operated by the York Catholic District School Board and the York Region District School Board (the boards), that provided school bus schedule information. The article reported that while the website was intended to allow parents to track the time their children were picked up and dropped off from school, other individuals could use the site to obtain information about children, including their school, grade and where and when they are picked up and dropped off.

After reviewing the information, the IPC initiated a privacy investigation. Upon learning that the boards also jointly operated an automated phone system that provided school bus schedule information, the phone system was included within the scope of the investigation.

Both the website and automated phone system disclosed detailed information about school bus routes, pick-up and drop-off times and locations (which could be either an intersection or a specific address), but not the student's name. The website provided information in relation to an address or set of addresses on a particular street and could be viewed by anyone with Internet access. The automated phone system provided information in response to a particular phone number the caller entered, and pertained to the student at that particular phone number. Although it was intended to be used by parents of students enrolled in the region's schools, it was accessible to anyone.

The investigation concluded that although students' names were not disclosed, the information disclosed was personal information because it was recorded information (clearly in the case of the website, but also in the case of the automated phone system as the disclosure of that information was taken from electronic records) about an identifiable individual. Both the phone and web service were designed exclusively for the purpose of linking bus route information to identifiable individuals.

Finally, the investigation concluded that the disclosure of the personal information was not in accordance with the municipal *Act*, as the boards did not seek the required consents to disclose the personal information. Nor could it be said that the disclosures were "reasonably compatible" with section 190 of the *Education Act*, even if it were to qualify as an identified purpose for the collection or disclosure of student information.

The boards subsequently advised the IPC they had dismantled the phone system and re-designed the website. The IPC determined that the re-designed website was in compliance with the municipal *Act*.

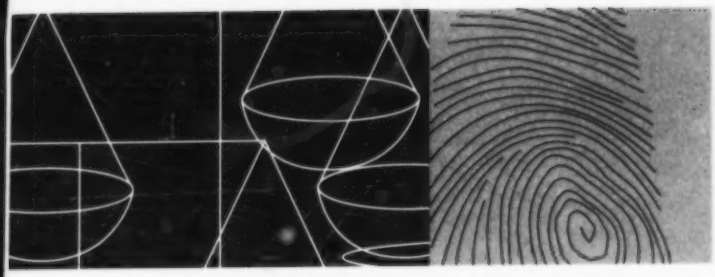
CORPORATION OF THE CITY OF KINGSTON
(MC-020052-1)

A Kingston newspaper reported that a list of business occupancy tax (BOT) arrears dating back to the mid-1990s was attached to a council agenda (which was circulated to councillors and the media), posted on the city's website and made available in hard copy to the public. The newspaper also reported that the list was posted on a city councillor's personal website. Because the newspaper report suggested that the list could contain the names of individuals, and might, therefore, contain personal information, the IPC initiated a privacy investigation under the municipal *Act*.

Section 2(1) of the *Act* states, in part, that "personal information" means recorded information about an identifiable individual. Previous decisions of this office indicate that information about a business, as opposed to an individual, will not generally be considered to be personal information.

During our investigation, the city confirmed that the newspaper article was factually correct but submitted that where an individual's name appears on the list as the name of the business, he or she was engaged in commercial activities as distinct from activities undertaken in a personal, non-commercial capacity. The city explained that it billed business owners for the BOT based on assessment information collected by the Ministry of Finance (the ministry) through its annual commercial enumeration process. Since, by definition, a business name cannot be a natural person, the ministry does not assess natural persons as commercial or business entities. For this reason, no individual could, in fact, be in arrears of BOT.

The IPC concluded that the information contained in the BOT arrears list was not about an individual acting in a personal capacity; therefore, the information did not qualify as "personal information," as defined by the *Act*. In light of this conclusion, it was not necessary to consider whether the disclosure was in accordance with the *Act*.



JUDICIAL REVIEWS

In 2003, the courts rendered several decisions settling the proper approach to exemptions and exclusions under the *Freedom of Information and Protection of Privacy Act*.

(1) The Supreme Court of Canada denied the IPC leave to appeal from a ruling of the Court of Appeal for Ontario, which found the IPC's interpretation of the solicitor-client privilege exemption at section 19 of the *Act* to be incorrect. In its 2002 judgment, the Court of Appeal held that the standard of review for the IPC's decisions concerning this exemption was correctness, rather than the usual standard of reasonableness, because the Court's expertise relative to the IPC in this area was "overwhelming." The Court concluded that the IPC was wrong to apply common law principles of solicitor-client privilege to records "prepared by or for Crown counsel" and for this reason erred in finding that privilege ended at the conclusion of the Crown's prosecution of an accused. This ruling affirmed a 2001 lower court decision and settled an issue common to a number of other cases pending before the courts.

(2) In another case involving solicitor-client privilege, Ontario's Divisional Court upheld as correct the IPC's decision that section 19 of the *Act* did not permit the Office of the Children's Lawyer (OCL) to withhold records from its own client, who was a minor. The Court found that the reference in section 19 to records "prepared by or for Crown counsel" did not apply to OCL lawyers, because they were representing the minor and not the Crown. The Court also upheld the IPC's decision that the "advice to government" exemption at section 13 did not apply to many of the same records, this time applying a reasonableness standard of review. While the records contained "advice," it was advice provided for the benefit of the minor and did not relate to government decision-making or policy formulation.

The Court also addressed the important issue of participation by the IPC in judicial reviews of its decisions. The ruling has broad significance for the standing of expert tribunals on judicial review. The OCL had argued against the IPC's right to file written argument or make oral submissions. The Court rejected the OCL's argument that the IPC's participation in support of its own decision would compromise its impartiality. The Court held that the *Judicial Review Procedure Act* entitles the IPC to be a party on any judicial review of its decisions and gave IPC legal counsel the same scope for participation as any other party, subject to the rules of court.

This Divisional Court ruling is subject to an application by the OCL for leave to appeal to the Ontario Court of Appeal.

(3) In a third case involving solicitor-client privilege, the Divisional Court upheld as correct the IPC's ruling that records of costs incurred by Ontario's Attorney General in bringing witnesses from a foreign country to testify in murder trial proceedings were not protected by the section 19 exemption. The IPC's decision denying two other exemption claims was also affirmed. Because the names and signatures of witnesses had been expunged from the records, the Court held that the IPC was reasonable in finding that they did not contain any "personal information" and that the personal privacy exemption at section 21 did not apply. The Court was also satisfied that the IPC was reasonable in concluding that the disclosure would not jeopardize the accused's right to a fair trial, nor undermine rulings made by the trial judge to safeguard that right. Accordingly, the IPC's interpretation and application of the law enforcement exemptions at sections 14(1)(a) and (f) was also upheld.

(4) In another case, the Divisional Court affirmed the requirement in section 2(1) of the *Act* that information must be about identifiable individuals to qualify as "personal information." The Ministry of Health and Long-Term Care had interviewed a number of people while auditing the activities of a mental health consumer/survivor association. The ministry argued that the individuals were identifiable by the nature of the statements and because the program had only 20 participants, with a core group of five to seven individuals. The Court noted that there was evidence before the IPC that the group was larger than 20, and that the audit had taken place over a period of two years. The Court found that it was reasonable for the IPC to conclude that it would be difficult, if not impossible, to identify any single individual.

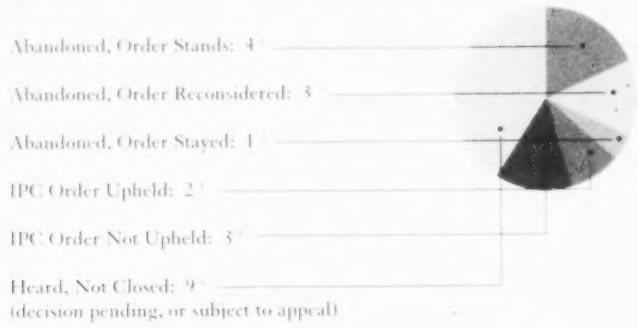
(5) In a decision involving the application of the *Act* to specific records and the Commissioner's jurisdiction, the Court of Appeal overturned a ruling of the IPC that was earlier upheld by the Divisional Court. The Commissioner and the Divisional Court had both held that records of negotiations between the Ontario Medical Association and the Ministry of Health and Long Term Care, dealing with the remuneration of physicians, were subject to the access provisions of the *Act*.

The issue arose out of amendments to the *Act* that excluded a significant amount of employment and labour relations information from the *Act's* coverage. The ministry had refused to make a decision on access to the records on the grounds that they related to "labour relations" and were covered by the exclusion. The IPC and the Divisional Court both ruled that, because the physicians were not government employees, the records did not relate to labour relations and the exclusion did not apply. However, the Court of Appeal held that the term "labour relations" was not restricted to employer/employee relations and included negotiations between the government and physicians. Therefore, the *Act* did not apply to the records relating to those negotiations and the ministry was not obliged to make a decision on the requester's right of access to the records.

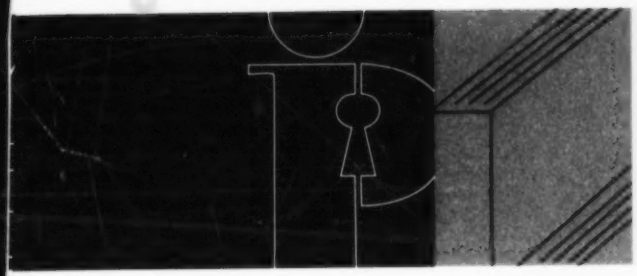
Outstanding Judicial Reviews as of December 31, 2003: 27

New Judicial Review applications received in 2003: 11

Judicial Reviews Closed/Heard in 2003: 22


Abandoned, Order Stands: 4 [1]
Abandoned, Order Reconsidered: 3
Abandoned, Order Stayed: 1 [2]
IPC Order Upheld: 2 [3]
IPC Order Not Upheld: 3 [4]
Heard, Not Closed: 9 [5]
(decision pending, or subject to appeal)

1. *Abandoned, Order Stands: PO-2092-F, MO-1395, PO-1883, PO-2020*
   Abandoned, Order Reconsidered: PO-1931, MO-1344, PO-1814
   Abandoned, Order Stayed: PO-1759
2. *Order Upheld: PO-2057, P-1568*
3. *Order Not Upheld: MO-1366, PO-1721, P-1561/R-980036*
4. *Heard, Not Closed: PO-1779, PO-1809, PO-1810, PO-1922, PO-1952, PO-1993, PO-2006, PO-2028, PO-2084*



OUTREACH PROGRAM

One of the five core roles of the IPC is to help educate the public about its access and privacy rights.

Through its *Outreach* program, the IPC has launched a series of special initiatives to help raise the profile of access and privacy in Ontario. In 2003, the IPC expanded several ongoing programs and reached out to Ontario through new initiatives.

Each initiative is based on one or more of the five core elements in the *Outreach* program: the *Speeches and Presentations* program, the *School* program, the *Publications* program, *Media Relations* and the *IPC Website*.

One of the new initiatives in 2003 involved the IPC's *Reaching Out to Ontario* (ROTO) program, under which an IPC team visits four different regions a year for a series of presentations to various groups on access, privacy and the role of the IPC. The ROTO initiatives in Sarnia, North Bay and Peterborough were expanded to include an information display at a major local mall. IPC staff handed out IPC publications and answered questions from members of the public about their access and privacy rights. This initiative worked so well that the IPC, which is focusing its ROTO efforts in 2004 in Toronto, is setting up information displays at different Toronto-area malls throughout the year.

SPEECHES AND PRESENTATIONS

Commissioner Ann Cavoukian delivered 55 presentations in 2003. She was a keynote speaker at a number of major conferences and also made special presentations at universities and to various groups. Among these were presentations to the Canadian Council of Chief Privacy Officers; the Centre for Ethics in Toronto; major provincial organizations that included the Ontario Hospital Association, the Institute of Chartered Accountants, and the Financial Services Commission; international organizations that ranged from the American Bar Association to the founding conference of the European Biometric Forum, and a number of universities, including the University of Toronto, York University and the University of British Columbia, as well as Cambrian College in Sudbury.

Other segments of the IPC's speakers' program include:

- the *Reaching Out to Ontario* program cited earlier. In 2003, IPC teams visited Guelph, Sarnia, North Bay and Peterborough;
- a university program, where members of the IPC's Legal and Policy Departments make presentations to faculty and students in business, technology and law programs;
- a general public speaking program, where IPC staff make presentations on access and privacy to various groups or organizations;
- a media program, under which the IPC's Communications Co-ordinator addresses college and university journalism or electronic media classes, and workshops at newspapers and other media.

SCHOOL PROGRAM

The IPC's highly successful school program, *What Students Need to Know About Freedom of Information and Protection of Privacy*, focuses on Grade 5 (where students first learn about government) and the compulsory Grade 10 civics program. The third element of the program makes additional resources available to Grade 11 and 12 teachers.

The special teacher's guide developed for Grade 5 teachers by the IPC, with the help of curriculum specialists and classroom teachers, includes a number of lessons and background material for in-class discussion and study of why freedom of information and protection of privacy are important. The guide complements the Grade 5 social studies unit on Aspects of Government.

The Grade 10 teacher's guide, which includes a privacy quiz and material for a discussion on open government, provides the foundation for students to discuss why these two values are important and how these values are reflected in our relationship with government.

The Grade 11-12 teacher's guide, added at the suggestion of secondary school curriculum consultants, provides resources that teachers can use in such courses as Canadian law.

During 2003, the IPC made presentations about its school program to history and social studies consultants at six school boards. As well, IPC staff made more than 40 presentations to Grade 5 classes as part of its *Ask an Expert* program.

All three guides, and brochures outlining each of them, are available on the IPC's website **(www.ipc.on.ca/english/resources/resources.htm)**.

IPC PUBLICATIONS

The IPC released 17 print publications or major submissions in 2003, covering a wide spectrum of privacy and access topics. These included *Making Municipal Government More Accountable: The Need for an Open Meetings Law*, part of an IPC initiative urging the Ontario government to introduce a comprehensive open meetings law, and *Guidelines for Using Video Surveillance Cameras in Schools*, which provides hands-on advice to ensure that privacy issues are carefully considered if a school board adopts a video surveillance program.

A full list of the 2003 publications follows this *Outreach* report. During 2003, 14,603 copies of IPC publications were distributed at conferences or mailed out in response to requests.

To help get IPC publications and other information into the hands of Ontarians, the IPC sets up an information table at a number of conferences. These range from public meetings or conferences organized by the IPC itself (such as the annual *Privacy and Security Workshop* the IPC co-sponsors with the University of Waterloo, which again attracted an overflow crowd last November), to other conferences the IPC has speakers at, to major conferences of organizations that the IPC wants to reach, to special orientation sessions (such as the information room set up at the Legislature for the new MPPs elected in October).

MEDIA RELATIONS

Media reports are one of the ways that Ontario residents learn about access and privacy issues. As part of its pro-active media relations program, the IPC tries to raise the media's consciousness about access and privacy issues. This program includes meetings with the editorial boards of newspapers (there were four such sessions in 2003), presentations to newsrooms and media students, on-site discussions and interviews at television and radio stations and newspapers during *Reaching Out to Ontario* initiatives, and through news releases and publications.

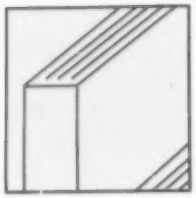
The IPC is also frequently contacted by the media seeking interviews, asking questions about freedom of information or privacy issues or processes. The Commissioner is the official spokesperson for the IPC and accepts as many requests for interviews as her schedule allows. During 2003, the Commissioner gave 93 interviews – to Ontario, Canadian and international newspaper, TV, radio, magazine and online reporters. Overall, the IPC assisted more than 175 reporters seeking interviews, basic facts or background information.

IPC WEBSITE

The fifth core element of the *Outreach* program is the IPC's website, which offers a wide range of information about access and privacy issues and legislation. A redesigned, more reader-friendly website was unveiled early in 2003.

You will find answers to common questions about access or privacy, all IPC publications and orders, copies of the two *Acts*, educational material, news releases, selected speeches and other presentations by IPC staff, forms and much more on the website.

For more detailed information about the IPC's website **(www.ipc.on.ca)**, see the chapter that follows *IPC Publications*.



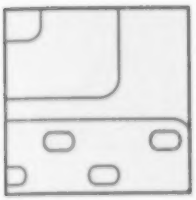
IPC PUBLICATIONS

The IPC's publications program is one of the primary ways it provides information about specific access or privacy issues to government organizations and the public. In addition to its annual report and two newsletters, the IPC produces a number of policy papers, brochures and specialty publications each year.

The papers released in 2003, in order of publication, included:

- *If you wanted to know…Identity theft and your credit report: What you can do to protect yourself* provides guidelines on what to do about your credit report if your identity/identification has been stolen.
- *Posting Information on Websites: Best Practices for Schools and School Boards*, a joint project of the IPC, the Upper Grand District School Board and the Peterborough, Victoria, Northumberland and Clarington Catholic District School Board. These best practices focus on issues frequently dealt with by schools and school boards and offer guidance when posting information to websites.
- *Business Improvement Project: How to Assist in Increasing Compliance with the Freedom of Information and Protection of Privacy Act*, a joint project of the IPC and the Ministry of Health and Long-Term Care's Freedom of Information and Protection of Privacy Office.
- The Spring 2003 edition of the IPC's bi-annual newsletter, *IPC Perspectives*.
- *What to do if a privacy breach occurs: Guidelines for government organizations* is aimed at government organizations, but the guidelines can be used by all organizations.
- *National Security in a Post-9/11 World: The Rise of Surveillance…the Demise of Privacy?* This paper provides an introduction to the main anti-terrorist initiatives to create a greater awareness of the concerns being raised about these measures. It also outlines the factors governments should consider to ensure surveillance technologies and other national security systems are implemented in a manner that minimizes the impact on privacy.
- Commissioner Ann Cavoukian's annual report for 2002.
- *Inspection Reports and the Municipal Freedom of Information and Protection of Privacy Act*, a joint project of the Town of Newmarket and the IPC.
- *The State of Privacy and Data Protection in Canada, the European Union, Japan and Australia*. This paper outlines some of the global developments in the privacy arena.
- *A Guide to Ontario Legislation Covering the Release of Students' Personal Information*. This updated paper provides students, parents and school board staff with a basic understanding of how the *Municipal Freedom of Information and Protection of Privacy Act* interacts with the *Education Act* to protect privacy and provide access to the personal information of students.
- *Electronic Records and Document Management Systems: A New Tool for Enhancing the Public's Right to Access Government-Held Information?* This paper examines the role that electronic records and document management systems (ERDMSs) can play in enhancing the public's right to access information from government institutions in Ontario.
- *The Security-Privacy Paradox: Issues, Misconceptions, and Strategies*, a joint paper produced by the IPC and Deloitte & Touche, provides hands-on advice for developing strategies for information security and privacy protection.
- *Fees, Fee Estimates and Fee Waivers for requests under the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act: Guidelines for Government Institutions*. This paper provides a reference tool to assist government institutions in determining the what, when and how of claiming and calculating fees.
- *Making Municipal Government More Accountable: The Need for an Open Meetings Law in Ontario* outlines the need for new legislation to bring greater transparency and accountability to municipal governments.
- *Privacy and Boards of Directors: What You Don't Know* Can *Hurt You*.
- The Fall 2003 edition of *IPC Perspectives*.
- *Guidelines for Using Video Surveillance Cameras in Schools* assists school boards in ensuring that stringent privacy controls are part of any video surveillance program.

IPC publications are available on the IPC's website **(www.ipc.on.ca)** or by calling the Communications Department at 416-326-3333 or 1-800-387-0073 to request copies of specific publications.



WEBSITE

The IPC's website is a key element in its public education program. In 2003, approximately 235,000 people visited the website and viewed more than 1.2 million pages. There were a total of 121,807 files downloaded, 12,888 more than during the previous year – an increase of 11.83 per cent.

A newly redesigned website was rolled out in the beginning of 2003, featuring a *Hot Topics* link, which provides instant access to current and topical issues. Another improvement was the new maximum screen view, enabling visitors to see more text on the screen than was previously available.

For the second year running, the most popular resource was the *Privacy Diagnostic Tool*, which was downloaded 24,645 times – or slightly more than one in every five downloads.

The second most downloaded file was the *2002 Annual Report*, downloaded 13,282 times (10.90 per cent of all files downloaded). The third most popular file was *Making Municipal Government More Accountable: The Need for an Open Meetings Law in Ontario*, released late in the year (October) and downloaded 4,303 times. The top three downloaded files represented 34.67 per cent of all downloaded files.

Other popular resources in 2003 included *Workplace Privacy: A Consultation Paper*, downloaded 3,990 times, and *Privacy and Boards of Directors: What You Don't Know* Can *Hurt You*, downloaded 2,943 times.

The *Orders, Complaint Reports and Judicial Reviews* section was one of the most accessed sections of the website.

The IPC is constantly updating and improving the resources available on its website (**www.ipc.on.ca**). If you have any comments on the content of the site, please send these to **info@ipc.on.ca.**

MONITORING LEGISLATION AND PROGRAMS

Part of the mandate of the IPC, under the *Acts*, is to offer comment on the privacy protection and access implications of proposed government legislative schemes or government programs. The IPC takes this mandate very seriously. We were pleased with the extent to which ministries and municipalities sought our advice during 2003. The following list provides an overview of the work done by the IPC during 2003 that focused on government activities.

MINISTRY CONSULTATIONS

Ministry of Health and Long-Term Care:

- Bill 31, the *Health Information Protection Act*;
- Smart Systems for Health;
- Point of Service verification program;
- e-Physician project;
- Bill 8, *Commitment to the Future of Medicare Act;*

Municipal Affairs and Housing:

- Municipal open meetings proposals;

Ministry of Children and Family Services:

- Privacy issues for Children's Aid Societies and other transfer payment agencies;

Ministry of Finance:

- Province of Ontario Savings Office privatization;
- *Ontario Home Property Tax Relief for Seniors Act, 2003*;

Ministry of Transportation:

- Driver Record Licencing Agreement;
- International Fuel Tax Association;

Ministry of the Attorney General:

- Regulations under the *Remedies for Organized Crime and Other Unlawful Activities Act;*
- Family Responsibility Office;

Ministry of Consumer and Business Services:

- Identity theft standard affidavit;
- Review of physical security of offices.

MUNICIPAL

Kingston Police Services:

- Collection of crime statistics;

City of Toronto:

- Video surveillance;

City of Thunder Bay:

- Surveillance cameras;

Toronto Police Services:

- DNA collection.

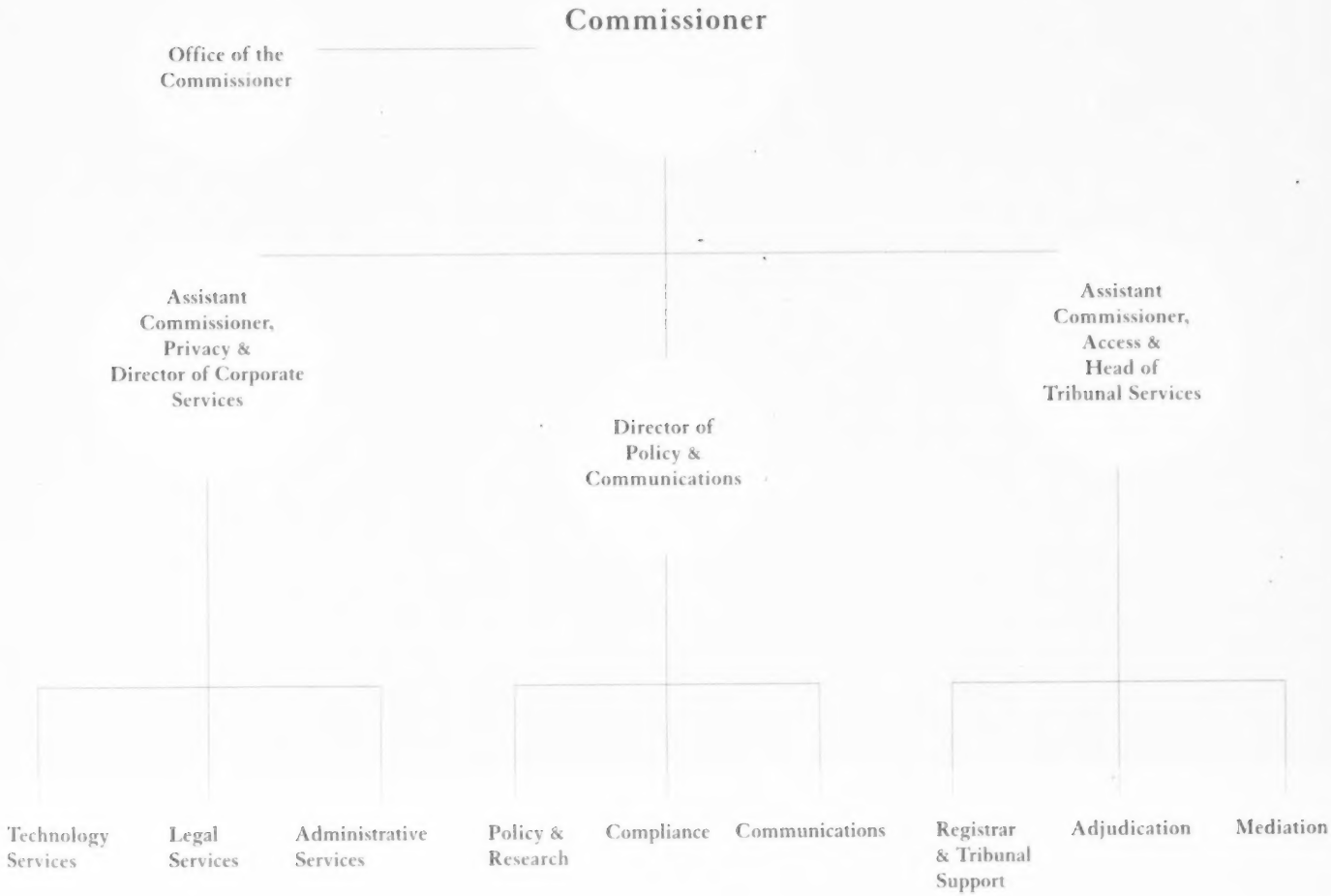
INDIRECT COLLECTIONS

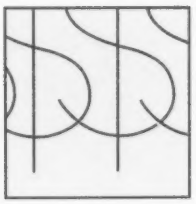
- Ministry of Municipal Affairs and Housing, SARS relief program.

SUBMISSIONS

- *Statement to the House of Commons Standing Committee on Citizenship and Immigration regarding Privacy Implications of a National Identity Card and Biometric Technology.*

ORGANIZATIONAL CHART





FINANCIAL STATEMENT

	2003-2004 Estimates $	2002-2003 Estimates $	2002-2003 Actual $
Salaries and wages	5,703,300	5,154,500	5,404,815
Employee benefits	1,356,300	1,005,100	806,030
Transportation and communications	180,400	180,400	208,056
Services	840,200	840,200	978,381
Supplies and equipment	275,400	275,400	112,544
Total	**8,355,600**	**7,455,600**	**7,509,826**

Note: The IPC's fiscal year begins April 1 and ends March 31.

The financial administration of the IPC is audited on an annual basis by the provincial Auditor.

APPENDIX 1

As required by the *Public Sector Salary Disclosure Act, 1996*, the following chart shows which IPC employees received more than $100,000 in salary and benefits for the calendar year ending December 31, 2003.

Name	Position	Salary Paid	Taxable Benefits
Cavoukian, Ann	Commissioner	$ 180,894.73	$ 343.31
Mitchinson, Tom	Assistant Commissioner (Access)	$ 189,073.47	$ 332.53
Anderson, Ken	Assistant Commissioner (Privacy)	$ 182,781.14	$ 327.99
Beamish, Brian	Director, Policy & Communications	$ 122,276.61	$ 204.57
Challis, William	General Counsel	$ 182,517.17	$ 333.91
Goldstein, Judith	Legal Counsel	$ 140,835.60	$ 262.22
Goodis, David	Senior Adjudicator & Manager of Adjudication	$ 153,986.27	$ 279.86
Higgins, John	Legal Counsel	$ 158,368.95	$ 287.81
Morrow, Bernard	Adjudicator	$ 102,879.92	$ 0
O'Donoghue, Mary	Manager, Legal Services	$ 156,758.17	$ 284.87
Senoff, Shirley	Adjudicator	$ 101,811.13	$ 189.48
Swaigen, John	Legal Counsel	$ 151,521.51	$ 282.06

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